DEA/FBI REORGANIZATION

HEARING

BEFORE THE

SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

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DEA/FBI REORGANIZATION

TUESDAY, MARCH 30, 1982

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,
Washington, D.C.

The committee met, pursuant to call, at 10 a.m., in room 2247, Rayburn House Office Building, Hon. Leo C. Zeferetti (chairman) presiding.

Present: Representatives Leo C. Zeferetti, Lawrence Coughlin, Michael G. Oxley, and E. Clay Shaw, Jr.

Staff present: Patrick L. Carpentier, chief counsel; Brenda L. Yager, minority counsel; George R. Gilbert, assistant staff counsel; Edward H. Jurith, staff counsel; Ricardo R. Laremont, professional staff member; Elliott A. Brown, minority professional staff member; James J. Heavey, press officer; Nona W. Cofield, executive assistant; and Catherine M. Chase, staff assistant.

Mr. ZEFERETTI. Good morning, ladies and gentlemen. As part of the select committee's continuing examination of the administration's efforts to develop a cohesive drug policy, we held a hearing last week to review the administration's progress in establishing an effective, coordinated drug law enforcement strategy. An important component of the administration's plans to improve the effectiveness of drug enforcement is the initiative currently underway to coordinate the drug enforcement efforts of the Federal Bureau of Investigation and the Drug Enforcement Administration.

Our hearing today will focus on the critical changes being made in the investigation of Federal drug offenses and attempt to determine how the involvement of the FBI in drug investigations will affect our drug enforcement efforts.

In January, the Attorney General assigned jurisdiction to the FBI to investigate drug offenses concurrently with the DEA. The purpose of this change was to bring the full resources of the FBI to bear on the serious problem of drug trafficking. At the same time the FBI Director was assigned responsibility for general supervision of drug enforcement efforts, and DEA was directed to report to the FBI Director rather than directly to the Department of Justice. Other measures adopted in January included plans to conform agent qualifications for both agencies, to switch DEA agents from the competitive to the excepted service like FBI agents, and to begin cross training and agent rotation programs for FBI and DEA agents. Steps are also being taken to restructure DEA so that its organization will more closely resemble that of the FBI. A key change is to centralize direction of DEA operations in headquarters.

The DEA was established as the Nation's lead drug enforcement agency by Reorganization Plan No. 2 of 1973. In the face of an ever mounting threat from drug trafficking, DEA was created to consolidate under a unified command the antidrug forces of the Federal Government that were fragmented among numerous departments and agencies. DEA was also established to underscore our Nation's commitment to effective drug law enforcement.

The select committee strongly believes that the integrity of the DEA as our lead drug enforcement agency must be preserved. Over the years, the DEA has established credibility and close working relations with State and local agencies and foreign law enforcement officials. The effective coordination of our drug control efforts depend in large part on their continued cooperation. We are concerned, however, that the involvement of the FBI in narcotics law enforcement does not so envelop DEA as to jeopardize the essential relationships that DEA has with other governmental agencies and abroad. State and local agencies must be assured that DEA is an independent organization and not under FBI control. Further, if the FBI is given a lead role in international narcotics control, the FBI's internal security responsibilities will undoubtedly raise suspicions among certain foreign governments.

We recognize the need for additional resources to combat the massive drug trade. Indeed, our committee has continually urged this administration and prior administrations to seek increased support for drug law enforcement. We are concerned, however, that the increased involvement of the FBI in drug law enforcement serves to improve the overall effort and does not limit the effectiveness of DEA. The FBI's ability to carry out its normal responsibilities in view of the draining of its manpower for drug enforcement is also of concern.

This morning FBI Director William H. Webster and DEA Administrator Francis M. Mullen, Jr., are with us to discuss these and other issues.

Gentlemen, let me say we welcome you both this morning and look forward to your presentations. And again I want to apologize for the delay.

Before going any further, I would like to invite my colleagues to make opening statements.

Mr. COUGHLIN. I have no statement at this time. I would like to welcome the witnesses and express my appreciation to them for appearing before me. Nothing is more important than the task they are undertaking in connection with the drug abuse and as we have said many times, we have got to put our money where our mouth is in this area, and do the job. Thank you very much.

Mr. ZEFERETTI. Mr. Webster and Mr. Mullen, we received your joint statement, so that will be made part of the record and you can proceed in any manner that you feel comfortable with. Either gentleman, as your desire.

TESTIMONY OF WILLIAM H. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. WEBSTER. Thank you, Mr. Chairman. Since our statement is made a part of the record, I think it is really not necessary for me

to go into much detail before responding to your questions in matters of interest to you.

It might be useful to the committee if I outline very briefly the evolution of the process of bringing the FBI and the DEA into closer working relationship during the past year. As you will recall, I am sure, the Attorney General's task force on violent crime made certain specific recommendations to try to capitalize on the FBI's ability in organized crime and accounting, financial expertise to support the efforts of drug enforcement.

It has seemed to me for some time that if our Government is—and State and local law enforcement agencies are—going to make an effective contribution against violent crime, we have to address the problem of narcotics. Perhaps no other area in criminality generates more crime and more violence than does the scourge of narcotics and drug abuse. For that reason and for several years the FBI has been looking at its role in organized crime and its jurisdiction in organized crime to follow those efforts into narcotics wherever it might lead. The *Black Tuna* case in which we worked jointly with DEA is a good example of that, in southern Florida.

Given the problem, the Attorney General designated Bud Mullen who was my Executive Assistant Director in Charge of all FBI investigations to become Acting Administrator of DEA and established a committee chaired by Associate Attorney General Rudy Giuliani to consider the best ways and means. All options were considered, from outright merger to lesser areas of coordination. I formed a committee within the Bureau headed by Assistant Director Tom Kelleher, who traveled broadly around the country talking to FBI field offices and DEA executives, went traveling to Europe, and visited with various law enforcement agencies abroad to gage the possible impact of a closer working relationship.

All of this information was then made available to the working committee chaired by Associate Attorney General Giuliani. It was our view, and frankly it's been my view from the beginning, that the most important thing to take into consideration given the lack of any promise of additional resources, was to avoid any kind of downtime or inertia gap, or loss of momentum, for morale or other reasons that might result from a more active participation by the Federal Bureau of Investigation. And we worked in that direction.

We also recognized that there were many differences inherent in training, in eligibility for employment, in main strategies—a whole range of differences that we could accommodate best, at least for the moment, by not generating a situation in which very hard choices would have to be made causing morale problems within both Bureaus.

It seemed to us that the most logical approach was to retain the watertight integrity of the DEA as an ongoing viable enterprise with specific responsibilities that the FBI does not have and does not seek to have. And in order to expand the effectiveness of Federal participation in the drug program, that the FBI should be given concurrent jurisdiction in the 21 series.

It was our recommendation and the Attorney General's decision that the DEA should report through the Director of the FBI in order to eliminate so far as possible stepping on each other's feet and to insure the maximum level of coordination.

During the roughly 6 or 7 months that Mr. Mullen was acting as Administrator of DEA, waiting for the Attorney General's final decision—which came in January, as the chairman pointed out—the number of joint investigations between the FBI and DEA increased from 6 or 10 to 125 and now we are at about 150. I saw no evidence of any fall off in morale—naturally there was an area of uncertainty as to what was going to happen, you are going to have that in any agency, particularly one that's experienced as many reorganizations as DEA. This is really not that kind of reorganization. There have been some important management changes within DEA that all of us feel will strengthen it, will improve its effectiveness, but it has not been assigned out or split up or destabilized. It's an effective, viable organization of very able and competent people.

We have gathered our special agents in charge of our field offices, our field commanders, at our annual meeting and have discussed at length with them, following a number of separate meetings with training, laboratory people and so on. The interrelationships have now been put into place between the two agencies. Mr. Mullen gathered his group, his opposite numbers, at the same time we met. We arranged it so as to coincide over Tuesday evening and on Wednesday morning all of us were together. And then continued our separate responsibilities. That document—if the chairman doesn't have it already, we'll see that a copy is made available to the committee—reflects the best efforts at the present time to work out who goes where and how we work together, how problems are resolved and how supervision is provided. Certain decisions have been made with respect to allocation of laboratory resources, for example. FBI will funnel its drug substances to DEA; DEA will funnel its forensic materials, fingerprints, evidence, forensic evidence, through the FBI laboratory. These things have worked out, I think, in a relatively harmonious way. We will take another look at this implementation directive in 6 months. We will be looking at it as we go but it will be up for revision at that time.

DEA has had an administrator during all of this time. It has functioned in all of its relationships both in the United States and abroad without change. It continues to be the principal Government agency for dealing with the drug problem. It has the sole responsibility for the regulatory or enforcement area, and it is the agency which represents us abroad in the drug effort.

I think I have just about covered the genesis, and I don't want to turn this into a filibuster, and I will be glad to answer any kind of questions that you have. It has been thoughtful. We have had cooperation from both sides. We are going to have joint training, we are going to train about 200 to 300 special agents for the FBI at Glynco this year and a corresponding number of DEA agents will be taken through Quantico to understand our procedures. We have sent over to DEA a number of specialists to assist in improving certain areas of management, we are going to have liaison in every field office. That is, a DEA agent in the FBI field office and a liaison FBI agent in DEA offices.

We are going to have some problems, I am sure, as we go through this but the effort is to get the additional support that the FBI can provide. To provide it by having people where DEA agents

are not. There are many areas, as you know from your committee work, where DEA is very sparsely populated, unable to respond to anything of a major effort. It is very difficult to put a title III in place because of the numbers of people required to service a title III wiretap. They are just not there in many parts of the country. We hope to be able to supply this and we are continuing our central thrust in the areas of organized crime, financial expertise, accounting crimes, and an aspect of official corruption in the narcotics area.

That generally is the way that we see our role with DEA. Mr. Mullen may have something more to add to that.

Mr. ZEFERETTI. Mr. Mullen.

TESTIMONY OF FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

Mr. MULLEN. There are just two areas I want to touch on, and you mentioned them briefly in your statement.

One is the concern of foreign nations with regard to FBI involvement. Since I arrived at DEA on July 13 of last year, I have met with over 30 foreign officials, all of whom were interested in the drug problem. And of the 30, all were pleased that the FBI was involved. The only concern seemed to be why has it taken so long.

So I just do not believe that this is an issue. If you have specifics in this area of a particular foreign official who was concerned, is concerned, I am sure I could answer any questions.

Mr. ZEFERETTI. Let me answer that before you go further, in that we had the privilege of being in Peru to work with the State Department where they are involved in an eradication of the coca crop in Peru. One of the concerns that was expressed to us by their Minister of the Interior, was that the FBI was going to take over DEA because of this merger that was going to come into effect. The concerns that they had were that the FBI was perceived as being an arm of the CIA. This was their explanation to us. And the DEA in its broader sense had been the one agency that functions specifically in one particular area, which was drugs, where FBI, because of the jurisdictions that they had functioned in many areas and their presence was perceived to be something other than what it could be as a result of the merger with the DEA.

And that was our concern because it was such an emphatic comment made by this administrator from the Peruvian Government.

Mr. MULLEN. I have met with Peruvian officals and they have not expressed the same concern. I have not met with this particular individual, and that perception of course is incorrect.

Mr. ZEFERETTI. He's the head of investigative services in Peru and I would suggest that somebody talk to him because there is a concern there, a strong concern.

Mr. MULLEN. I'll make it a point to have somebody talk to him or deal with him myself, should I travel down there.

The other area I want to touch on is the cooperation with local authorities. I, of course, served with the FBI in charge of investigative activities and never perceived cooperation as a problem. We have the FBI national academy that has trained thousands of officers and we cooperate on a daily basis in joint task force operations

in New York on terrorism and bank robberies. I believe it may be the nature of the work here that, in years past when the FBI was more heavily involved in automobile theft cases and the fugitive cases, we had more contact with local authorities. That is the nature of the work at DEA. Drug enforcement requires almost daily contact, and so you have that perception of close cooperation. In fact, close cooperation does exist and that will continue.

But, I want to emphasize that the FBI also has a high degree of cooperation. I've seen very little difference where there is a common interest in the type of enforcement work. I do want to state also that Judge Webster really touched all the bases with regard to the development of the FBI-DEA relationship; he did mention the increase in the number of joint investigations. I can add to that by stating that fugitive cases are now being investigated by the FBI. DEA had 2,750 fugitives, and we were unable to look for those fugitives because we had so much work of a current nature that had to be addressed. So, we took the top 300 and referred them to the FBI. The first one apprehended, in Dallas, Tex., had been missing for 7 years; and when arrested he had weapons and drugs in his vehicle. So this is an area where the FBI will be of tremendous help. These fugitives are people we know are involved in drug trafficking.

We have prepared a comparison of the 9 months prior to my arrival at DEA and the 9 months that I have been here in an acting capacity. This comparison reveals a 66-percent increase in the number of court authorized wiretaps, which are a vital tool in attacking the drug enforcement problem. Also, we are now able to do this type of work in areas of the country where we were unable to do so before because of lack of resources. We see a very positive benefit in this area. I believe that the relationship is working very well and I am very confident of success in the future.

That's all I have, Mr. Chairman. I am prepared to answer any questions.

[The statement of William H. Webster and Francis M. Mullen, Jr., follow:]

PREPARED STATEMENT OF WILLIAM H. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, AND FRANCIS M. MULLEN, JR., ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION

Chairman Zeferetti, members of the Select Committee on Narcotics Abuse and Control, we are pleased to be here today to present the Department of Justice strategy for implementing a coordinated, effective drug law enforcement program.

The drug trafficking industry has been growing rapidly, and has become increasingly more sophisticated. There has been a marked acceleration in the involvement of traditional organized crime, outlaw motorcycle gangs and other groups in the highest levels of narcotics trafficking. Furthermore, the FBI has encountered increasing drug trafficking violations coincident with its investigations into public corruption and major theft. We estimate that about one-quarter of our traditional organized crime or public corruption investigations involve drug trafficking. The Attorney General's Task Force on Violent Crime emphasized the significance of drug trafficking in relation to the overall crime problem and the need for the implementation of a clear, coherent and consistent national policy regarding drug law enforcement that reflects an unequivocal commitment to combatting international and domestic drug trafficking.

Law enforcement has adapted to these changing circumstances by pursuing investigative avenues not conventionally associated with drug investigations. These techniques are designed to reach and immobilize drug trafficking cartels. They include long-term electronic surveillance and property title searching and require skills

such as accounting as well as familiarity with investment banking. Although it has made great progress, DEA, acting alone, was never able to utilize these tools fully. The FBI, however, has proven expertise with these investigative avenues. Furthermore, the FBI has had the resources to pursue these directions, which require substantial manpower and other resources.

Therefore, in June 1981 the Attorney General initiated a management experiment to capitalize on the FBI's experience, expertise and resources. Both DEA and FBI issued simultaneous communications from headquarters instructing all senior field officials to establish formal contact with their counterparts and ascertain how their joint resources could best be directed at the uppermost levels of drug trafficking organizations.

Our primary consideration in this move was the need to expand and develop an integrated investigative approach which concentrates on conspiracy violations, drug-related financial investigations and drug asset forfeitures. Because this strategy requires management experienced in investigations of this type, the Attorney General appointed Bud Mullen, an FBI Executive Assistant Director, to supervise DEA during this transition.

At the same time, we undertook certain actions within DEA. DEA's own senior managers had already concluded that their organization needed streamlining to make the agency more efficient and more effective in support of the drug law enforcement program in the field. As a model, we looked to the FBI's centralized management, which has assured the responsiveness of headquarters to field efforts and the proper allocation of resources. We concluded that such a system would further enhance DEA's efficiency and better support the overall mission of the agency. Accordingly, in recent months we disestablished DEA's regional structure and implemented a system of direct field office reporting to headquarters. By July, we will have reorganized DEA's headquarters structure along program lines, rather than geographical lines, with a "desk" or unit in headquarters for each type of drug investigation.

While the interim management team was at DEA's helm and while the number and quality of DEA/FBI cooperative endeavors were increasing, a Committee of high-ranking Department of Justice officials was studying alternatives to permanently ensure better coordination between DEA and the FBI. Based on the recommendations of this Committee, on January 21, 1982, the Attorney General formalized the DEA/FBI reorganization. Most central to this realignment of responsibilities are the following:

DEA will continue intact as a law enforcement agency headed by an Administrator. However, the Administrator of DEA will report to the Department of Justice through the Director of the FBI.

The FBI has been assigned jurisdiction over the violations of the federal criminal drug laws, concurrent with the jurisdiction of DEA.

The Director of the FBI will assure that maximum available FBI resources are used effectively to supplement DEA's existing resources and expertise.

The Administrator of DEA, subject to the general supervision of the Director of the FBI, is responsible for developing strategies for joint DEA/FBI drug enforcement efforts and should assure that DEA is organized in the manner most conducive to effective drug enforcement.

The most critical element and noteworthy consideration is that, for the first time, FBI resources will be used to supplement and complement those of the DEA to jointly attack the drug crime problem nationwide. The directive of the Attorney General recognizes the strengths and unique capabilities of each agency. The FBI's resources and expertise will enhance, without at all displacing, DEA's capabilities. The infusion of FBI resources will augment the national drug enforcement effort and permit the development and implementation of long-term, joint investigative strategies. Harnessing these investigative assets will ensure that the maximum available resources will be used effectively to conduct upper-echelon drug cases and the "spin-off" investigations of related crime.

More specifically, the principal benefits accruing to the federal drug law enforcement effort can be categorized and described as follows:

1. ADDITIONAL PERSONNEL WILL BE AVAILABLE FOR DRUG ENFORCEMENT

FBI resources will add to the pool of agents, in a greater number of locations, around the country. In some areas of the country, DEA has such a minimal presence that federal drug investigations have been virtually non-existent. The FBI's wide deployment in approximately 500 locations in the United States will expand the presence of federal drug enforcement. Moreover, in some locales, the presence of

a sufficiently large FBI contingent could permit DEA to redeploy personnel to high priority areas, such as Florida. Greater numbers of agents will also allow for greater flexibility in conducting Title III electronic surveillances and complex drug-related financial investigations.

2. MORE SOPHISTICATED INVESTIGATIVE TOOLS WILL BE AVAILABLE FOR DRUG ENFORCEMENT

DEA's limited use of the more sophisticated investigative techniques, such as electronic surveillance, has been attributed for the most part to a lack of resources. The FBI considers the utilization of such techniques essential to the investigation and prosecution of large, complex criminal organizations. The FBI's expertise and success in this area can readily be transferred to multi-subject drug trafficking networks.

3. THE PROPOSED STRUCTURE WILL ENHANCE ASSET SEIZURE EFFORTS

Drug trafficking cartels can be immobilized only if their financial bases are destroyed. Although DEA has realized increasing successes in this regard, it has barely scratched the surface. DEA simply does not have the resources to fully exploit the potential of such investigations. The FBI has 1,200 Special Agents trained in accounting. Their expertise in conducting financial investigations is outstanding and will significantly enhance the Department's drug asset removal program.

4. THE FBI'S NETWORK OF INFORMANTS AND CRIMINAL INTELLIGENCE CAN BE USED IN DRUG CASES

FBI informants, particularly those involved in organized crime, often provide information about drug trafficking activity, which can be used to initiate drug investigations. The existence of a large FBI intelligence data base has also proven to be a significant resource in drug investigations, and increased shared use of respective intelligence information by DEA and the FBI can be readily accomplished. This concentration of effort by utilizing the sources, techniques and intelligence information of both agencies, together with a multi-jurisdictional approach toward dismantling major drug trafficking organizations, will enhance the federal government's enforcement strategies, planning and operations.

This FBI contribution is intended only to supplement—not supplant—DEA's work. Placing DEA under the general supervision of the FBI Director is not intended to limit the responsibility of the DEA Administrator as the nation's chief federal drug law enforcement officer. The Director, however, is uniquely situated to oversee the joint workings of both agencies and, therefore, has been assigned this responsibility by the Attorney general. Under the Attorney General's mandate, DEA will continue to function as the principal federal drug enforcement agency, responsible for (1) the enforcement of the Controlled Substances Act, (2) the diversion control efforts associated with regulation of the legitimate drug industry, (3) drug intelligence analyses, and (4) collection, publication and dissemination of appropriate strategic assessments. The FBI, however, will assume a significant role in drug enforcement, to be carried out in close cooperation with DEA. The FBI has been directed to focus its resources on (1) drug investigations involving traditional organized crime and violence-prone non-traditional criminal groups such as outlaw motorcycle gangs, (2) financial investigations and (3) white-collar and corruption investigations, insofar as they are related to drug trafficking. In all such cases, where it is feasible, the FBI and DEA will support each other's investigative endeavors. FBI expertise in court ordered surveillance will be available to DEA. Of course, there will be many joint, cooperative investigations against mutual targets.

The specific areas of responsibility and precise coordination between the agencies will vary with the locale, the nature of the local drug problem, the availability of resources and the extent of the drug/crime problem in a particular field division. It will, therefore. be incumbent upon FBI and DEA field office management to identify the drug enforcement needs of their area and to coordinate their activities, subject to all appropriate supervision from headquarters.

DEA will continue to be responsible for the coordination of the drug enforcement effort with state and local enforcement agencies. This responsibility will also carry over in relations with the balance of the federal community with drug interdiction responsibilities. Finally, DEA will continue to be responsible for the conduct of drug investigations in foreign countries, in order for the United States government to present a single point of contact for our foreign drug enforcement counterparts.

On March 12, 1982, we approved the Implementation Directive for Concurrent Drug Investigative Jurisdiction between the Drug Enforcement Administration and the Federal Bureau of Investigation. This document clearly establishes areas of responsibility and accountability for both agencies. The directive will be reviewed periodically and modified if necessary. We would be pleased to provide a copy of this Implementation Directive to the Committee.

We expect to enjoy economies of scale and other administrative economies under our new cooperative strategy. Several separate DEA and FBI programs might well be redesigned to accommodate and support each other. We are actively examining our training programs, our laboratory systems, our ADP systems and our communications networks, to determine whether and how they can be integrated or made more compatible.

We are striving to achieve conformance and compatibility in this program. Our objective is to standardize, to the extent that is realistic and possible, the DEA and FBI personnel and administrative procedures. The Attorney General has endorsed the need to place the Drug Enforcement Administration in the excepted, rather than competitive, service. The excepted service provides the necessary discipline and flexibility of management actions to most efficiently and effectively accomplish the needs of a law enforcement service. It is important that the two major law enforcement organizations within the Department of Justice be able to exchange personnel, which cannot be done until DEA is in the excepted service. For the same reasons, it has also been recommended that DEA and the FBI have uniform hiring standards and promotional systems for Special Agents. The Department will consider legislation to place DEA in the excepted service.

DEA and FBI training officials have been working together to develop cross-training programs that will give *all* agents the requisite knowledge and understanding of their tasks, standardize the operating procedures and investigative methods employed by both agencies and, generally, achieve the goals enunciated above. The completion of such training will permit us fully to utilize the FBI's wide deployment in more than 500 locations nationwide.

Mr. Chairman, we are in an era of transition. We have had several notable investigative successes thus far; we are certain they will increase significantly. Both DEA and FBI personnel have demonstrated their willingness to make this realignment of responsibilities work. No doubt, there will be some problems as we proceed with the transition. But we will adjust our operations and procedures as experience gives us a benchmark from which to make those judgments. To aid us in this regard, we are establishing a DEA/FBI Working Group at both headquarters. This working group of DEA and FBI supervisors will resolve conflicts that may arise in the course of investigative work.

At the field level, the Attorney General has begun an innovative program to ensure that the drug problem is addressed in a manner that will effectively respond to local needs. Implementing one of the key recommendations of the Task Force on Violent Crime, the Attorney General has directed the United States Attorney in each federal district to establish a Law Enforcement Coordinating Committee (LECC). Each LECC is composed of the heads of the federal law enforcement agencies in the district, as well as state and local law enforcement officials with significant responsibility in the district. Each Committee is to assess the crime problem in the district and the resources and jurisdiction of the federal, state and local agencies. The Committees are then to develop cooperative strategies for using those resources in that jurisdiction.

The problem of drug crime will be on the agenda of every LECC. Each Committee is to form a drug enforcement Sub-Committee comprised of prosecutors and investigators involved with the drug problem. The Sub-Committee members will explore the dimensions of the drug problem in the district and the law enforcement resources—federal, state and local—arrayed against that problem. The chief task of the Sub-Committee will be to assess how those resources can be utilized to achieve the greatest impact in the most serious areas with the least overlap.

There is an additional component to this new approach. Based on what he learns at the LECC meetings, each United States Attorney will develop and submit a District Law Enforcement Plan. The Plan will set forth the law enforcement priorities in the district and outline the ways in which federal jurisdiction and federal resources in the district will be used against those priorities. Needless to say, a detailed assessment of the district drug problem and a comprehensive set of strategies to deal with that problem will be an essential part of each Plan.

Over 50 United States Attorneys have convened their first LECC meeting and the District Plans are beginning to come in. We are confident that this program will lead to more effective enforcement of federal, state and local drug laws.

Finally, many of the issues involved in drug enforcement require interdepartmental and interagency coordination and action. Accordingly, the Attorney General is chairing the Cabinet Council on Legal Policy, which will address these very issues. The Cabinet Council met last week to establish its goals and responsibilities. Associate Attorney General Rudolph W. Giuliani is chairing the Working Group on Drug Enforcement within the Cabinet Council to implement a comprehensive strategy that will bring the full range of federal resources to bear to halt the flow and illegal use of drugs in the United States.

No crime problem is more important than drug trafficking and abuse; no problem is more challenging. We are confident that the implementation of the initiatives discussed today will have a measurable impact on the problem. Thank you for your interest in our mission and your support of our endeavors. We will be pleased to answer any questions you may have.

Mr. ZEFERETTI. Thank you Mr. Mullen and thank you Judge Webster.

First let me get back a little bit to what we were talking about as far as being abroad and what the perception is. I would like either one of you to answer—what exactly will the FBI's role be overseas? How is that going to work. Is it going to be the presence of DEA or is it going to be the presence of DEA and FBI, or how are they going to split the jurisdictional boundaries overseas. That would be of interest to the committee, I am sure.

Mr. WEBSTER. I don't see any present change in the relationship. We have in a number of parts of the world, not as many as perhaps we should, legal attachés who serve not in an investigative capacity but simply to facilitate cooperation between the FBI and local law enforcement agencies. They would be in place of course and could potentially be of assistance in a noninvestigative way.

But the responsibility will remain exactly as it presently is with DEA carrying that responsibility for foreign activities.

Mr. ZEFERETTI. Judge Webster, you know our concerns have been not so much to be questioning you in the areas of what your procedures are going to be because I think over a period of time a lot of that is going to have to be falling into place and you've just implemented this directive which you have just given to us. We haven't had a chance to go over this, so you may be answering some of our concerns.

I want to tell you though that we are here as a watchdog committee. We don't have the legislative responsibility to make certain things happen, but we can as members of various standing committees that have legislative jurisdiction create the kind of concern and the legislation that could be helpful. We are not here in an adversary posture. We are here to find out things and we are here to make that transition maybe somewhat smoother along the way, but we are also here to make sure that somewhere along the line we don't lose the emphasis on this whole war on drugs. You mentioned earlier the ability to get resources. Well, at the same time that you are going to be assisting DEA, I want to make sure that none of the resources are diminished for your agency in order for you to take care of all those other jurisdictions that you have the responsibility for. The DEA in fact does need resources to continue their endeavors. If they needed manpower or other equipment or communications, intelligence, and tools, we want to be that lead committee to give them that kind of assistance.

And we want to make sure, too, that their drug enforcement presence is of a nature that is of highest quality we can provide. I

am concerned, when we had the associate Attorney General, Mr. Giuliani, in front of us, he was talking about places like Cincinnati, where we have 4 DEA agents and possibly 100 FBI officers in that same area. How do we, and Bud, maybe you can explain it, how do you coordinate this kind of response. For arguments sake, if I am involved as a DEA agent in an investigation, how do I immediately get you to respond to my circumstances? Do I still have to go through layers of bureaucracy to make sure that it's a case worth pursuing, or can I just call up the local FBI director there, or whoever the head is, and say,

Hey, we're on the tail of something. We'd like you to come in with us. We'd like you to set up some wiretaps, we'd like you to participate in the investigative procedures. We think organized crime is part of this and we know you've already shared in that investigation. Can you lend us some cooperation to make a case out of this.

How is that done? Maybe you can walk us through a little bit and give us some kind of help.

Mr. MULLEN. Yes, I can. The guidelines you do have before you, but I realize you haven't had a chance to read them thoroughly, or at all. Very briefly, the layering that you refer to is a thing of the past. We have dismantled the regional structure so the DEA field office operations now can contact headquarters directly. This makes for quicker service and quicker reaction.

But should DEA develop a case locally, depending on the nature of the case, if it is organized crime, they will contact the FBI in each case and seek resource help if available. If it requires a major commitment, you mention wiretap for example, and a heavy commitment of resources, this will be coordinated at the headquarters level. But we have provided for liaison at the field level; each FBI office and each DEA office will be appointing a liaison official so they will have communication in the field. We are going to cross-assign agents at the headquarters level, an FBI agent over to DEA and one DEA agent to the FBI to coordinate.

But depending on the level of resources required, if it's a minimal effort say for surveillance to help make arrests, that could be handled on a local basis. You mentioned Cincinnati, so there is a case in point. DEA has never had a wiretap in Cincinnati because they had but four agents. But with the help of 12 FBI agents, they were able to install one; and it appears as though 35 people will be indicted in the near future.

Mr. ZEFERETTI. How do you charge the man-hours? How do you do this again?

Mr. MULLEN. Each agency will be responsible for tracking its own statistics and resources committed to the drug effort and for paying the cost of informants, gas, and any support needed. Each agency will handle its own costs in that manner.

Mr. ZEFERETTI. But one of the things we had heard during testimony, during our hearings, was that some of the offices of DEA throughout the country had such low resources that in one case in particular they didn't even have gasoline to put in their cars. So again I am just curious as to who is going to get charged for what? Are we going to be able to, at the end of this merger or this transition period, are we going to be able to determine whether you are going to need some more money, are we going to be able to determine where the resources are coming from, or are we going to just

be charging the FBI with x amount of dollars to augment whatever your needs are? There has got to be some kind of accounting.

Mr. MULLEN. Judge Webster has the overall supervision and policy control of the drug enforcement effort. DEA will be coordinating its budget request with the FBI to insure we are not making requests that are duplicative. So, we will coordinate it at the national level in that manner.

But as indicated earlier, if the DEA has the major commitment of resources to an operation, DEA will handle the funding and the support for the operation. If the FBI has the major commitment, then the FBI would handle it in that case. We expect our local agents in charge to work out these difficulties in the day-to-day routine operations. If it's a major commitment, and we just had one involving several hundred thousand dollars that was approved at both the DEA and FBI headquarters level, it was only a matter of weeks in which we were approved a long-term operation that required headquarters review.

Mr. ZEFERETTI. One of the concerns I have is whether you have control over your own budget, No. 1; No. 2, by attritioning out people are you going to be able to rehire them, are you going to be able to put those DEA agents back, or are you going to be able to borrow from the FBI if the case comes down to where the budgets—where you can't draw the money, where you don't have the resources?

Mr. MULLEN. Our agent level is remaining constant. We are not losing any DEA agents. Yes, we'll control our own budget, but we do want it reviewed and coordinated with the FBI budget because we have discovered several areas where there were ongoing research programs where coordination could result in some substantial savings for the Justice Department and resources that could be funneled into the enforcement area, where we could use those resources.

Mr. ZEFERETTI. Have you found any problems, Judge Webster, in the morale of the FBI agents themselves who are now asked to work alongside of some people who they feel are—you know, "It's OK but I had to go through a heck of a lot more to get to where I am than they did," as far as qualifications are concerned. Is there any, I don't want to use the word hostilities, but is there any resentment or any morale problem?

Mr. WEBSTER. Mr. Chairman, I think we probably would have had some problems on both sides had there been an effort to make a quick fix or merge these two organizations together. We'd have had a lot of hard choices on different standards, techniques, strategies, and so forth. We have avoided that, I believe, almost entirely by the approach that the Attorney General approved. Our people have been looking at the problem, just as I have, for a long time and have seen the impact of drugs as they work in their other programs and have become more and more convinced, and this hasn't been just within the last year. We have been looking at this for 2 or 3 years now, and perhaps longer. There was a report in 1977 and that was one of the first things I read when I came to Washington.

To answer your question, I made it a point to visit with agents and supervisors and field commanders in various parts of the United States during the past year to bring this subject up, if they

did not in fact bring it up to me. And I found an almost universal readiness, almost eagerness, to make a contribution here simply because the work was there, and our other agencies, including DEA, were just being overwhelmed by the sheer magnitude of the problem.

In fact, we have had to put certain kinds of stop controls out there because every office in the country is ready to go full scale into fighting drugs and we have to manage, as you pointed out, our other responsibilities and to handle this as far as the FBI is concerned, as an important adjunct, a supportive effort, toward the work of DEA. So there is tremendous enthusiasm and willingness. There are still a lot of open questions because this implementation directive has only been in place for about 3 weeks. People are studying it, getting used to it. There are a lot of questions that are still unanswered in their minds until they sit down with this.

Our field commanders are now working in the field with the agents as are their opposite numbers in DEA to answer a lot of those questions. Most of them are answered. And there are still open questions, but the excepted service, nonexcepted service, qualifications for admission and so on, really do not at this moment pose a morale or inertia or downtime problem to us. And the Attorney General has signed off on the proposition that I should, insofar as possible, bring the requirements for admission to DEA at the appropriate time and in the appropriate way in line with FBI standards. And as we work toward increasing our mutual professionalism, I think those issues will take care of themselves. But they present no blockbuster stop issues now in the way that they have been handled today.

Mr. ZEFERETTI. Have you had the ability to sit down with some of the other agencies with the responsibility of combating drugs, like Customs and the Coast Guard and the like? DEA has coordinated with Customs very, very successfully in the past, with Customs locating and DEA investigating leads and following through and concluding with, in most cases, an indictment and conviction of the individual. So that's a consideration, too, of assuring the coordination and continuity of the investigative process. And I am just curious as to whether that's part of your strategy and how that works, how that gets put into operation also. Because as you said, every agency that has that responsibility wants to do something and wants to be part of something. So I am just curious whether or not you have had any talks with the other agencies to put together a task force to assure cooperation, if nothing else.

Mr. WEBSTER. Of course, one example of that is in southern Florida where there is a special task force trying to deal with that and other problems in southern Florida. Again DEA, from the law enforcement side, Federal law enforcement, becomes a principal agency working with Customs, working with the Coast Guard, and related agencies there. The FBI is supporting it by putting additional agents, some 43 agents have been permanently assigned to Florida over and above its—southern Florida—present complement. Over and above the present complement. Additional agents have been put in place by DEA. FBI has worked at one time or another in one way or another with Coast Guard and with Customs and with INS, so that these are not strangers to us.

But the principal coordination responsibility is still with DEA and it's a matter of bringing another partner on board.

Mr. ZEFERETTI. Before I turn it over, I just want to ask one more question. Judge Webster, can you assume these responsibilities within the current budget structure that you have or will you have to ask for a supplemental appropriation to keep up with the changes and keep up with the directives that you have put into motion?

Mr. WEBSTER. Mr. Chairman, we are one part of, one cog in, a lot of wheels that have to do with how much money the Government is prepared to appropriate and spend. I think it would be foolish for me not to say we could use a lot of money that we do not now have. The problem is making effective use and letting you know of our minimal requirements. We are presently committing between 10 and 15 percent of our resources in drug related matters. That number may very well go higher but it will do so in substantial measure in the areas where we already had jurisdiction. Organized crime, for example. We no doubt will have to reassess some of the work that we are doing in other programs at a lower priority level. I don't mean canceling out whole programs, but looking at some of the kinds of work where we have been able to participate in investigations that we may have to draw down on. That's been really the story of our life for the last several years in trying to get along on static or shrinking resources. It will have an impact here. But I think there is no area that I can think of in our program responsibilities that is more important to succeed than this one. And if we are at a point where we must have more money, we'll come back, with the approval of the Department and OMB. It's a big assignment, we're ready to do it, we want to do it, we are doing the best we can with what we have. I can't represent to you that we won't have to backburner some activities, but this is more important than the activities we will backburner.

Mr. ZEFERETTI. I am concerned because I sit on the Rules Committee and right now the Rules Committee is meeting and we are going over the supplemental budget request and unfortunately there has been an objection made to about $3.2 million that was going to go into southern Florida for the purpose of funding the task force and its operation down there, and there is a fight going on as to whether or not that's going to be put back.

Originally I believe the amount of money was better than $6 million; that was cut in half, and now I understand from my staff that as of this morning, they didn't even allow the $3.2 million. I'll be getting called to go up there in a few minutes but I am concerned with that kind of consideration. And I am concerned because if we are going to put emphasis in any one section of the country—and it's not to say that southern Florida doesn't have the need. I don't mean that. But I don't want to be put in the position of drawing all of our forces into one area and leaving open other parts of the country for smugglers to utilize as an entry point for illegal drugs into the United States. So it is very important for us to look at where you are right now. We've been checking everybody up and down to see if in fact by draining—whether it be your agency, or DEA or Coast Guard or whoever—we want to find out whether or

not those priorities can be met without weakening at the same time some of the other areas.

So when I speak to you about resources, I am also just alerting you that there are things happening that most of us have no control over and I just want to make you aware of it.

Mr. WEBSTER. Thank you, Mr. Chairman. I do appreciate that and we will watch of course our own resources very carefully and we want to make sure that we have enough resources to do the job. But I am equally concerned, and I know that Mr. Mullen is equally concerned that some of the other important keys to the solution of this problem not be overlooked as well. We cannot deal with the enormous quantities of narcotics and drugs coming into this country at the present levels. We do not have the law enforcement capability to do it. It makes far more sense to address the issue of why it is coming, and what are we doing to interdict it before it comes inside our borders. That implicates the State Department policy, and it implicates the use of the military resources to stop those ships and airplanes coming in in great quantities, bringing great quantities of drugs. They need the resources as well.

The Coast Guard, I don't think has a cutter that's under 25 years old. They are providing tremendous law enforcement assistance and they have been doing so on very few resources. With the help of the military, other branches of the military we can do an even better job of keeping that stuff from hitting the country and then we have to investigate and find it and deal with it.

Mr. ZEFERETTI. I couldn't agree with you more. That's been our concern as a committee. We've looked at it—we get a little frightened when we keep adding jurisdictional responsibilities to the agencies but not giving them the resources to keep up with the responsibilities. That's why I was concerned when you are adding more responsibilities to your agency and not—I want to make sure you are getting the resources to be able to do the job. We can repeal posse comitatus but it's not going to help you on the investigative end of it and it's not going to help you against organized crime if you don't have sufficient resources of your own. I don't want to pull away from that approach because I think it's essential for the other agencies to get help equipment-wise, intelligence-wise, or communications-wise. That's all great, and that's why we clarified that law. But we are still a long way from giving those responsible agencies what I feel, anyway, and what many members of this committee feel, is the kind of priority that's necessary, if in fact we are talking about a war on drugs. As you know, it's more than just organized crime. It's every entrepreneur out there that's got a dollar, that wants to make a dollar, that's getting into this business. So we need it all. We need as much coverage as possible.

Mr. Oxley.

Mr. OXLEY. Thank you, Mr. Chairman.

Judge Webster, first of all I would like to perhaps clear up some misconception I think a lot of people in this country have and I think it was alluded to by the chairman in his discussion with the Peruvian officials, and that is the relationship between the CIA and the FBI.

I wonder if you would care to address that for the committee because I think it is an important thing that we should talk about.

Mr. WEBSTER. Thank you, Congressman Oxley. The FBI of course is separate and independent from the Central Intelligence Agency. We have an intelligence community in this country headed by the Director of Central Intelligence for the purpose of making sure that our budgets are all tied together, that we function in a coordinated and effective way and that we cooperate with one another.

But CIA's responsibility is outside the United States, the gathering of positive and counterintelligence abroad. The FBI has no positive intelligence gathering responsibility abroad nor does it function in this way. Our responsibilities in the intelligence field are to engage in counterintelligence activities within this country to identify and penetrate hostile intelligence services and neutralize their effectiveness. In the course of that we gather positive intelligence for the use of agencies who have that responsibility. But we do not go abroad for the purpose of engaging in intelligence gathering functions and we are not under the direction or control of the CIA.

Quite to the contrary. When the CIA is in this country on one of its assignments permitted by the Presidential Executive order, it must coordinate all of its counterintelligence effort with the FBI. That is to say, we must approve their activities within this country under Attorney General approved procedures.

So there should be no real cause for concern that we are going to engage abroad in an intelligence gathering function. That is simply not our assigned role.

Mr. OXLEY. Thank you. To what extent has organized crime become involved in narcotics and isn't that a relatively new involvement for organized crime? Wasn't it the history of organized crime in the past that they basically eschewed the opportunity to get into the drug business? But hasn't that fact changed within the last several years?

Mr. WEBSTER. I think there has been an evolution over the last several years among traditional organized crime families. There was some distaste for that type of activity among the older members that has been supplanted by some of the newer and more independent leaders through the years.

We identify, I believe, about 25 percent of organized crime activities having some drug relationship. But in addition to the traditional families, we have now seen developing successfully within this country criminal enterprises that are not of the traditional LCN group. The Colombian cartels bringing drugs into this country are a good example.

You recently saw the indictments, I believe, in what we call the "Peewee Griffin" case, the stock car racing cases in the South, which involves an ongoing criminal enterprise, but no real LCN participation or manipulation.

In addition to those groups, some of the motorcycle components, or components within motorcycle organizations have been engaging in violent crime with drug relationships, carrying out on a contract basis illegal criminal activity involving drugs.

So there is such a sizable profit that it is logical that organizations such as traditional organized crime enterprises, who specialize in cash intensive type activity, would find their way there. In the Bancoshares operation in southern Florida, which involved essentially Colombian cartels, the FBI entered into an undercover op-

eration laundering money for the various Colombian cartels who came to it to avoid not knowing who they were dealing with yet to avoid putting money through banks that could be tracked by the FBI.

Before we brought that operation down in a year and a half with the assistance of the Drug Enforcement Administration, we had laundered in a very small group, over $170 million in cash for these cartels. I mention that only to suggest the high volume of cash that is involved in drugs and that is always a tremendous lure to organized crime which tends to go into those areas. Restaurants, casinos, vending companies; any place where there is a lot of cash, and the profit margin is irresistible.

Mr. ZEFERETTI. Thank you. Mr. Shaw.

Mr. SHAW. I have nothing at this time.

Mr. ZEFERETTI. Have you had a chance to take a look at some of the pending legislation that we have, such as the forfeiture bill, and the bail reform bills that have been introduced in the House of Representatives? Have you had an opportunity to at least give it some kind of perusal?

Mr. WEBSTER. I am generally familiar, Mr. Chairman, but I think maybe Mr. Mullen might have some comments on those because they affect him more directly. I can give some comments, if you'd like.

Mr. MULLEN. Mr. Chairman, we believe that some sort of bail reform is absolutely essential, and I believe there are 11 bills now pending before the Congress dealing with this issue. Such matters as danger to the community being considered with regard to bail, repeat offenders being a consideration for the judge, need to be considered. The Department of Justice has been asked to comment, as has DEA; and we are in favor of some bail reform. We expect we will see some in this session. I know that Congress is very interested in it also.

Mr. WEBSTER. I collected over half a dozen examples, but I don't have them with me this morning, for informational purposes, of drug cases within the past 2 years in which drug defendants have walked away from bails of one-half million dollars and over. It underscores the amount of ready dollar resources that are available to let drug dealers move out of our jurisdiction and control. Sometimes I don't think the judges who have to set bail and are looking at the present bail laws realize that one-half a million dollars is no longer a sufficient inducement to return for trial.

Mr. ZEFERETTI. That's why I feel very strongly, and I know there are other members on this committee that feel the same way, that there has to be a change in the ability of the evaluation that the judge has to work with. That's why whether it's past crimes that he's committed, or whether he endangers a witness or a community, I think these are all considerations. Not whether or not he can just put up the money. Because I think that as you just indicated, all too often it doesn't matter today how much money. It's just a question of knowing.

I would also like to comment on the forfeiture bill. You know, this might be cost effective, too, if we could sort of take those resources that were part and parcel of what they have been able to gather over the years in their efforts in dealing in drugs, and make

that and turn it around and make it a kind of a feedback, if you will, to agencies that need that kind of critical dollars to buy that gasoline that I talked about earlier.

This is another avenue that I think is a very important one for us and a step in the right direction.

Do you want to comment on that, Mr. Mullen?

Mr. MULLEN. We have been following the forfeiture bills, and I know there have been several proposals with regard to utilizing seized assets. Of course, we do utilize seized aircraft and motor vehicles and other resources that we can convert to use, but I am not aware of the current status of bills pending dealing with the forfeiture and subsequent utilization of assets by agencies.

I am aware of the presumptive forfeiture provisions being asked for, and we have been supportive of those. I do understand that Senator Humphrey has introduced yet another bill dealing with the forfeiture of land on which marihuana is grown in the United States, and that's one I am sure the Department will be looking at and commenting on in the future.

Mr. SHAW. May I pursue that for just a moment? Is it your experience that the landowner himself is usually the grower, or that the marihuana is being grown unbeknownst to the landower? I understand there is a lot of Federal land involved with such crops at this time.

Mr. MULLEN. That's right. We believe we have a marihuana growing problem in each of our 50 States. I haven't seen the bill, but I would assume it would have to be for seizure where you would have to have the owner's knowledge. Seven percent of the marihuana consumed in the United States we believe is domestically grown. So this should be an effective deterrent if the bill is passed.

Mr. WEBSTER. This problem comes up, and I am going on years of my recollection and I think it's still the same, with seizure of automobiles that are not being used by the owner. If the owner wants a petition for remission of forfeiture he has to establish then that he was innocent of any knowledge and did not know about it. But it's an in rem proceeding and it's his burden to do that. It was his automobile and therefore technically in his control.

If we can find ways to increase the cost of doing business in drugs, it is my view that that is our best long-range strategy and these forfeiture efforts go a long way toward making the drug business unprofitable. Running the cost up.

Mr. SHAW. May I also inquire with regard to the areas of bonds and of bail reform bills that are being discussed. I have introduced one that would require, in every hearing with regard to drug cases, that the courts would be required to do what now they can do if they wish to do and that is to inquire into the source of funds being used. The half million dollar forfeiture in one of the New Orleans courts that came out of my own southern district of Florida was the reason why—or was the real spark behind the filing of this bill. It is so often that $500,000 is just a ticket to freedom and they would buy that like a normal person would buy an airplane ticket. They go back to Colombia or wherever they go, outside of this country, and certainly outside the reach of the courts never to be found again.

So I think that if our courts were to be required in drug hearings particularly in large cases to inquire as to the source of the funds being used, this could possibly be a great deterrent over using the funds obtained from drugs in this particular area. Would you all care to comment on that particular aspect?

Mr. WEBSTER. I think it's a very interesting approach, Congressman Shaw, and I haven't seen your bill but I will make a point of looking at it.

Mr. SHAW. I hope you will. It's been cosponsored by every one of the members—a complete delegation from the State of Florida.

Mr. ZEFERETTI. Mr. Oxley.

Mr. OXLEY. Mr. Chairman. Mr. Mullen, that would be helpful in your situation with regard to fugitives, and would perhaps ease the strain on your resources.

I am just wondering if you would comment on that and particularly as it relates to the figures you used. How many fugitives are in fact on the loose right now that you have jurisdiction over and are trying to find.

Mr. MULLEN. Bail reform certainly would be helpful in that area with regard to many of these fugitives—and I do not have the exact number—but it would be well into the hundreds of foreign nationals who have fled the United States. On occasion we'll have one coming in as a repeat offender and being caught a second time. In some cases, they are out on bail a second time. We are beginning to see more cooperation from Latin American neighbors, for example, with regard to Bolivia, where recently several fugitives were returned to the United States for prosecution

So in addition to the bail reform, we are trying to work out mutual assistance treaties with these countries in an effort to return the fugitives, but bail reform certainly would be helpful.

Mr. OXLEY. In terms of the mutual assistance treaties, is that done through the State Department or through your operation?

Mr. MULLEN. The mutual assistance treaties are negotiated by the State Department with Department of Justice assistance with foreign counterparts. We would especially like to see some with the Bahamas and the Caymans and areas like that where we know the money is flowing.

Mr. OXLEY. You mentioned the fugitive aspect of it and the fact that the Bureau now is helping in that area. Does the Bureau still have fugitive squads that are assigned specifically for that purpose?

Mr. MULLEN. It depends on the size of the office. In a larger office like Los Angeles, Chicago, or New York, yes, they would have a fugitive squad; whereas in other offices, say Memphis or an office of that size, agents would be seeking fugitives and perhaps also working bank robberies or related duties.

Mr. ZEFERETTI. Judge Webster and Mr. Mullen, first let me say again thank you very much. I would hope that we could leave the record open for a while to give the other members an opportunity to maybe send some questions to you. There are many activities going on this morning and I am sure that's why some of the gentlemen are not here.

Mr. ZEFERETTI. We would like to again reiterate our feelings of willing to do something to work closely together, wanting to do something to create, if you will, kind of a cooperative strategy that

can make some sense and that will have an impact. We feel that again as the only committee in town, seriously looking into some of these areas, we can be of help and whether we formulate a strategy that's just for the FBI and DEA, or whether it's one that's for all the agencies combined, I think it's important that we continue to talk to one another because I think that's essential if we are going to get that kind of priority that we have spoke about.

So again I thank you for taking the time to be with us and I hope that in the future that we could continue this kind of dialog.

Mr. WEBSTER. Thank you.

Mr. ZEFERETTI. Thank you, sir, very much.

[Whereupon at 11 a.m., the committee was adjourned.]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 30, 1982.

Hon. LEO C. ZEFERETTI,
Chairman, Select Committee on Narcotics Abuse and Control,
House Office Building Annex, Washington, D.C.

DEAR CHAIRMAN ZEFERETTI: I have had the opportunity of addressing your committee before because of my interest in the good work you are pursuing, and I am writing now to ask that my remarks on the subject of the Drug Enforcement Administration reorganization be submitted for the record.

I believe this short statement adequately addresses my concern and I know that you will give due consideration to every aspect of the important issue that your committee has taken on.

Thank you again for your cooperation in providing me this opportunity. I hope you will feel free to call on me whenever I can be of help to you.

With warm personal regards,

Sincerely,

ELDON RUDD,
Member of Congress.

Attachment.

DEA REORGANIZATION

Mr. Chairman, I am very pleased to have the opportunity to appear before your committee today to express my view on the proposed consolidation of Drug Enforcement Administration resources with those of the FBI. As you know, I spent 20 years as an official with the FBI both here and abroad, and I have great empathy for the problems which both the FBI and DEA face. I believe that a joining of DEA with the FBI would cripple the success of the mission of the DEA for the following reason.

The Drug Enforcement Administration was created with the specific task of uncovering and halting drug trafficking in the United States. It has been suggested that economies of scale would be achieved through the consolidation of this agency with the FBI. In my view, this would present serious problems for the achievement of the separate missions, and, no less importantly, the morale of personnel involved.

If the two agencies are merged, there will continue to be two separate and distinct training facilities for their personnel. The course of instruction will be vastly different, and the results will be two distinctly different types of missions for agents, who cannot be used interchangeably. If there were efforts to use agents from both in multijurisdictional assignments, the narcotics agents would be assigned lesser positions with lower status. There is no doubt that this would destroy the morale of these agents, and thus, hinder them from doing the job they had been trained to do. This type of system has been tried before in other areas and the effects on morale have been significant. I believe that the mission of the Drug Enforcement Administration is too important to put its agents' morale in jeopardy as this move would surely do. I maintain that in order to build the proper type of esprit-de-corps the specialized narcotics agents need to maintain the highest degree of purpose for their job, they need a separate and distinct identity, which would not subjugate them to the established order of the FBI.

I hope that the committee will take due notice of this concern and consider the possible effects of this problem on our total narcotics control effort.

AGENCY RESPONSES TO QUESTIONS SUBMITTED BY THE COMMITTEE

DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, D.C., June 7, 1982.

Hon. LEO C. ZEFERETTI,
Chairman, House Select Committee, on Narcotics Abuse and Control,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The following answers are submitted in response to your April 12, 1982 transmittal of questions for the hearing record pertaining to the DEA/FBI reorganization. As requested, Judge Webster and I have coordinated our responses, dividing the questions between the FBI and DEA, and then reviewed each other's responces. The FBI responses will be forwarded to you under separate cover.

I hope that you find these answers responsive to the Committee's concerns. Please feel free to call upon me if the Drug Enforcement Administration can be of further assistance to the Select Committee.

Sincerely,

FRANCIS M. MULLEN, Jr.,
Acting Administrator.

Enclosure.

IMPACT OF THE DEA/FBI REORGANIZATION ON COOPERATION WITH STATE AND LOCAL AUTHORITIES

Question 2. What will be the effect of the reorganization on DEA task forces? Will they continue to operate independently or will the FBI become involved in them?

Answer. There will be little or no effect on DEA Task Forces as a result of the new reorganization in DEA. The only exception will be in New York, where the task force will now report to the SAC of the New York Division. Heretofore, the New York Task Force reported to regional management. The Task Forces will continue to function as they have in the past, in tandem with the local DEA field office. There is no plan to involve FBI in the DEA Task Force program.

Question 4. DEA's credibility and working relationships with foreign governments are well established whereas concerns have been expressed that FBI involvement in narcotics investigations will be viewed with suspicion by foreign governments.

What steps are being taken to assure that DEA's overseas operations will not be jeopardized by giving FBI concurrent jurisdiction for drug investigations? Specifically, since DEA is required to handle FBI requests for foreign drug investigations (Part IV.L. of the Implementation Directive), isn't it likely that DEA will be perceived abroad as an adjunct to the FBI.

Answer. The Implementation Directive for Concurrent Jurisdiction between the Drug Enforcement Administration and Federal Bureau of Investigation is specific with regard to the relationship of the DEA Administrator to the FBI Director, and how drug investigations, either conducted jointly by the two agencies or independently by either agency, are to be coordinated. The Guidelines specifically state that "In keeping with the principle that the United States Government should present a single point of contact with foreign drug enforcement counterparts, DEA will continue to be responsible for the conduct of drug investigations in foreign countries. This will include the investigation of leads generated in all types of FBI/DEA cases."

DEA is the U.S. Government's drug enforcement representative internationally. DEA relationships with host country counterparts are credible and well-established; and, as such, we anticipate no misunderstandings regarding the differentiation in DEA and FBI roles in drug enforcement.

Question 5. How does the Justice Department plan to utilize the resources of DEA and the FBI in conducting financial investigations against drug traffickers?

Answer. Instructors from the FBI's Economic and Financial Crimes Training Unit are teaching in the DEA two-week Asset Removal Training Program held at FLETC, in Glynco, Georgia. These instructors are adding valuable course material to the program from the FBI's expertise in the areas of fraud and general white collar crimes. Additionally, cross-training of FBI Agents by DEA personnel in the use of the criminal forfeiture provisions of 21 USC 848 and the civil forfeiture provisions of 21 USC 881 is currently underway.

The combined resources and expertise of both agencies are also being utilized in a number of joint investigations whose objectives, in addition to the securing of indict-

ments against the violators, are to track the drug proceeds of known high-level traffickers and to seize their illicit profits and assets. To date, there are approximately 150 cooperative investigations being pursued jointly by DEA and the FBI.

INFORMANTS/EXCHANGE OF INFORMATION

Question 7. Reliable sources of information are crucially important to the work of the DEA. Are you concerned that informants, whom DEA has spent years cultivating, will be less willing to provide information if they believe it may be passed on to the FBI?

Answer. No. Informants know that it has always been DEA policy to provide the FBI with salient intelligence obtained from DEA sources concerning FBI violators. DEA will continue to control its informants and, at the same time, information will be provided to the FBI as appropriate. Both agencies, whether involved in unilateral or joint investigations, are focused on initiating prosecutable conspiracy cases and at the same time protecting the identity of their sources.

Question 8. Page 6 of your prepared statement indicated that the FBI's network of informants and criminal intelligence can be used in drug cases. It is our understanding, however, that the FBI generally protects the identities of its informants while the DEA presses its informants to testify in court in order to make cases against traffickers.

Answer. Both DEA and the FBI protect the identity of their operational informants. The FBI, due to the nature of their violations and domestic internal security responsibilities, attempts, where possible, to maintain longer range intelligence gathering sources. DEA, upon completion of the operational use of its sources, attempts, where possible, to convert sources into witnesses to develop and expand effective drug prosecutions. The court's mandate in this regard is predicated on the transactional nature of drug trafficking and, as such, DEA has been constrained by the courts to identify and produce informants during trials. DEA would prefer not publicly identify its sources. Consequently, DEA and its predecessor organizations have attempted to exploit operational sources in tandem with other investigative techniques (undercover, Title III, conspiracy development) in order to maximize and lengthen source utility value in the production of large-scale conspiracy prosecutions involving multiple defendants involved in the upper commercial strata of the traffic. The development of the United States Marshal's Witness Security Program has greatly assisted in the fuller exploitation of informant/witnesses in drug cases and is being increasingly used by the FBI in drug and nondrug criminal cases. DEA also maintains a cadre of intelligence sources and techniques which have not been surfaced for prosecutions. These sources are utilized to develop strategic and tactical data which may be used in DEA targeting of major organizations.

JOINT INVESTIGATIONS

Question 10. What procedures will be used to determine whether DEA or FBI will be in charge of a particular joint investigation?

Answer. In joint DEA/FBI cases the initiating agency providing the informant and majority of financial and/or human resources generally will supervise a joint drug case in close coordination with the other agency. In certain cases (Title III or grand jury type), both agencies may co-supervise an investigation in terms of resource dedication and tasking in concert with the U.S. Attorney's Office. The degree of participation, type of case, amount of financial and human input will generally determine which agency will supervise a particular domestic drug case. These decisions are made at the onset through the coordination of the local DEA/FBI SAC in concert with the respective Headquarters management officials in Washington D.C.

Question 11. In your testimony you indicated that the number of joint investigations has grown from 6 or 10 to about 150. Would you please provide the Committee with a list of all joint investigations in progress as of March 31, 1982, and the agency in charge of each one?

Answer. As of March 1982, there were approximately 150 joint DEA/FBI cases ongoing throughout the United States. Because most of these cases are in various preliminary developmental stages (preindictment, prearrest), it is not advisable to include names or further information at this time. DEA could provide the Committee with a list of case numbers of the joint cases now ongoing and, once the cases are concluded, permit the Committee to evaluate them.

Subsequent information on joint investigations provided to the Committee by DEA

Number of joint FBI/DEA drug investigations as of June 18, 1982..... 183
(No data is kept as to which agency is in charge of a joint investigation.)
Total number of FBI drug cases as of June 18, 1982 (including the 183 joint investigations with DEA)..... 821
Drug-related Title III wiretaps:
From July 1, 1980 to June 30, 1981—Number of Title III wiretaps conducted by DEA..... 33
From July 1, 1981 to June 18, 1982—Number of drug-related Title III wiretaps conducted by DEA and FBI, of which 24 were joint operations..... 74
DEA was the primary affiant in 52 of the 74 cases (including 12 cases conducted jointly with FBI). FBI was the primary affiant in 22 of the 74 cases (including 12 cases conducted jointly with DEA).

Question 12. According to DEA's new organizational chart, separate investigation sections are being established for specific drugs.

(a) How will these units improve DEA's investigative efforts?

Answer. Management of investigative resources and coordination of investigations will now be focused at DEA Headquarters, rather than on a regional basis. This will permit closer control of resources consistent with an enunciated national policy, more rapid responsiveness to the ever changing drug trafficking patterns, a more effective flow of investigations involving multiple offices, greater emphasis on national and international traffickers, and consistency of joint endeavors with the FBI, which are controlled from FBI Headquarters.

Question 12. According to DEA's new organizational chart, separate investigation sections are being established for specific drugs.

(b) In view of the fact that drug law violators are often involved with more than one drug, what is the rationale for having separate investigation sections for each of the major drugs?

Answer. Most criminals are involved in a wide spectrum of criminality during their careers. However, most gravitate to one or two specialties. Drug traffickers are no different and while many are embroiled in what may be referred to as polydrug trafficking, most major violators and organizations are focused around one or two controlled substances. From a historical overall perspective, our major investigations and prosecutions reflect this reality. The rationale for separate functional drug investigative sections, however, is not related to drug/violator specialty. Rather the DEA structure is designed to focus appropriate resource control and investigative emphasis on a national basis consistent with strategic intelligence assessment of drug traffic patterns, availability within geographic areas and drug abuse patterns. This functional system allows for the more flexible and responsive utilization of financial and human resources necessary to address fluctuating trafficking and abuse patterns across the U.S.

Question 12. According to DEA's new organizational chart, separate investigation sections are being established for specific drugs.

(c) How will investigations of violators who are trafficking in more than one drug be coordinated?

Answer. Investigations involving polydrug traffickers/organizations generally surround the procurement of physical (drug) or documentary evidence relating to one drug category. The stature of suspects/organization in one particular drug category will generally be the determinant as to which drug section will control and monitor a case involving a polydrug trafficker. A major cocaine violator for example may be dabbling or acting as middleman in the cannabis or dangerous drug traffic. Field offices will attempt to intitiate a cocaine case against him and/or his organization which will be monitored and controlled by the Cocaine Section. If it eventuates that a cocaine case cannot be initiated but a dangerous drug case can, a dangerous drug case will be implemented in order to immobilize this individual(s). In this instance, both drug sections will monitor the investigations which will be controlled by the Dangerous Drug Section. If added resources are needed in this instance, the Cocaine Section will provide ancillary funding. Generally the drug evidence in the instant investigation will govern which Headquarters section controls the case. In some instances where polydrug evidence is secured, the trafficker's status in a particular drug area, in conjunction with DEA's national priorities, will determine which drug section will control, coordinate and fund a particular case.

DEA'S INTERNAL ORGANIZATION

Question 13. (a) What are the advantages to be derived from centralized monitoring of investigations?

Answer. Outlined in #12, better control of resources, responsive to priorities, and coordinated with FBI.

Question 13. (b) To what extent will the conduct of DEA undercover operations be subject to supervision by DEA Headquarters?

Answer. DEA undercover operations will be controlled in the same manner as they have always been. Reverse undercover scenarios, utilization of large flash rolls and drugs and proprietary operations will be authorized by DEA Headquarters. Substantial purchases of controlled substances by DEA undercover agents will be controlled by the respective sections in DEA Headquarters.

PERSONNEL

Question 14. Included in the recommendations for increased DEA/FBI cooperation adopted by the Attorney General was the proposal that DEA agents be placed in the excepted service, as are FBI agents.

(a) Is the Department preparing legislation to accomplish this change?

Answer. A legislative recommendation to place DEA employees in the excepted service is now being reviewed at DEA prior to transmittal to the Department of Justice.

Question 14. Included in the recommendations for increased DEA/FBI cooperation adopted by the Attorney General was a proposal that DEA agents be placed in the excepted service, as are FBI agents.

(b) If so, when will this legislation be submitted to Congress?

Answer. There is no current projection of a submission date.

Question 14. (c) If DEA is to remain a separate agency, why is the change necessary?

Answer. Even though DEA will remain a separate agency, the change is necessary to provide DEA with greater flexibility in handling employee recruitment, assignments and disciplinary actions, that has been shown to be beneficial for a law enforcement agency.

Question 14. (d) What are the major differences between the competitive and the excepted service?

Answer. The primary areas in which there are major differences between the competitive and the excepted service are adverse actions, appointments and reduction-in-force. The major differences are:

ADVERSE ACTIONS

When an adverse action, i.e., any suspension, demotion, removal or furlough of thirty (30) days or less, is taken against an employee in the competitive service or an employee with veteran's preference in the excepted service, not serving a probationary or trial period, he/she is entitled to: (1) An advance written notice; (2) a reasonable amount of time to reply orally and/or in writing; (3) review material upon which the notice was based; (4) be represented by an attorney or other representative; and (5) a written decision.

When an adverse action is taken against an employee without veteran's preference in the excepted service, he/she is entitled only to a written decision.

Suspensions of 14 days or less may be grieved by an employee in the competitive or excepted service.

Note. Employees with DEA may file a grievance which may require the appointment of a grievance examiner (outside of DEA) who will conduct an inquiry into the matter. A decision on the grievance may be issued by an official in DEA or the Department of Justice, as appropriate. Employees with the FBI may appeal only within the FBI to the Director.

Suspensions of more than 14 days, demotions, removals or furloughs of 30 days or less may be appealed to the Merit Systems Protection Board (MSPB) by an employee in the competitive service, not serving a probationary period, and a preference eligible employee in the excepted service, not serving a trial period. A nonpreference eligible employee in the excepted service may appeal the action to the MSPB based on discrimination only.

APPOINTMENTS

Agencies are required to use examinations administered or approved by OPM for employees in the competitive service. They are also required to obtain certification for applicants from OPM unless the applicant has reinstatment eligibility.

Agencies are not required to use OPM examinations or request certification of applicants for employees in the excepted service.

REDUCTION-IN-FORCE

An employee in the competitive service is entitled to all of the procedural requirements of OPM regulations including bumping and retreat rights. An employee in the excepted service is entitled to all of the procedural requirements of OPM regulations except that such employees have no bumping and retreat rights.

LABOR RELATIONS (DEA V. FBI)

Employees with DEA may join or assist labor organizations except those excluded by law. Employees with the FBI are precluded by statute from membership in labor organizations.

Question 15. (a) What steps have been taken thus far to conform agent qualifications for both DEA and FBI?

Answer. DEA is in the process of reviewing and examining which standards of competitive service hiring requirements distinguish us from excepted service. Once these elements are isolated, we will be able to better adjust our hiring qualifications criteria.

Question 15. (b) What cross-training and agent rotation programs between DEA and FBI has the Department initiated?

Answer. Cross-training of FBI agents in drug law enforcement has already been initiated. By the end of fiscal year 1982, it is anticipated that 300 FBI agents will have participated in a four-week training school being conducted in Glynco, Georgia at the Federal Law Enforcement Training Center. Another 200 FBI agents will be receiving this training next fiscal year. Additionally, there are plans to conduct a 21-hour drug enforcement orientation program for Special Agents at each of the FBI's 59 field offices prior to the end of this fiscal year. There will also be cross-training incorporated into the DEA and FBI basic agent training programs. DEA instructors will be conducting a 21-hour segment on drug law enforcement during each of the FBI's basic agent training programs; and reciprocally, FBI instructors will conduct a segment of training during all DEA basic agent training programs.

At this time, there will not be any significant rotations of agents from one organization to the other. However, special agents are being detailed to assist in the transition. Two senior manager positions, Deputy Administrator and Assistant Administrator for Planning and Inspection, along with the position of Executive Assistant to the Administrator, will be filled by FBI personnel.

Question 15. (c) Do the different qualifications for DEA and FBI agents hinder agent rotation programs? In what ways?

Answer. Barriers to position changes between the DEA and the FBI stem primarily from differences in appointment authorities not qualification variations. All FBI positions are in the excepted service and consequently the movement of a DEA agent to a position in the FBI would require a resignation from DEA and a formal appointment in the FBI.

Likewise an FBI agent could not hold a competitive position in the DEA unless he/she resigned from the FBI and then was appointed by the DEA. This of course assumes that the resigning FBI agent either has competitive status or is within reach on a civil service register.

If both agencies were in the excepted services, movement, again, could be achieved without the technical problems described above.

Current cross-assignments are affected through details and temporary duty assignments which remain unaffected by different appointment authorities.

Question 16. The Committee has been informed that DEA is planning to transfer approximately 90 supervisory personnel nationwide. 63 are scheduled to be transferred to Washington to monitor investigations. The remaining 27 are being transferred to field offices. What will be the total cost to DEA for these transfers?

Answer. As a result of the changes in the field structure to implement a direct reporting system, and in the normal course of foreign rotational moves and the agent mobility policy, 90 supervisory special agents have been identified. Categorically, they are being assigned to Headquarters and field offices, as follows:

	To	
	Headquarters	Field
Return from foreign posts	4	7
From field for inspection program	10	
From field—regional abolishment	24	
From Headquarters		4
From field offices		41
Total	38	52

The estimated cost to DEA is presently approximately $10,500 for each relocation. For ninety moves, the estimated cost will be $945,000.

Question 17. As a result of the internal reorganization of DEA, how many personnel will DEA lose through RIF procedures? How many of these reductions will be from Headquarters and how many from the field?

Answer. Because of a degree of incompatability in existing on-board personnel and the staffing plans that have been developed for the new organization, a limited RIF will be conducted. The major impact will be in the field as a result of the closing of the regional offices where we estimate that as many as 75 personnel will be separated. In addition, we estimate an additional 25 personnel may be separated at Headquarters as a result of shifts in staffing levels and transfers of functions from the field. Both of these estimates may be lowered by attrition that occurs between now and the end of the fiscal year when the separations will take effect.

Question 18. (a) DEA's proposed budget for 1983 included a $2.5 million reduction equivalent to 100 workyears.

How many positions does this represent? Are any of these positions agent positions?

Answer. There is no reduction in authorized positions. The planned 1983 workyear level, i.e., the equivalent number of positions filled for an entire year, will be 100 less than the planned 1982 level. The planned agent workyears are not to be affected by this workyear reduction.

DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION—STAFFING DATA, 1977–83

Year	Full-time permanent positions authorized		Full-time permanent onboard staffing, September 30		Full-time permanent workyears	
	Total	Agents	Total	Agents	Total	Agents
1977	4,365	2,117	3,918	1,971	3,963	1,994
1978	4,365	2,030	3,857	1,944	3,867	1,936
1979	4,213	1,960	4,107	1,905	3,898	1,911
1980	4,074	1,917	4,001	1,913	4,072	1,907
1981	4,092	1,940	3,884	1,896	3,955	1,922
1982	3,953	1,872	[1] 3,717	1,832	[2] 3,771	[2] 1,852
1983 (estimate)	3,953	1,878	3,953	1,878	3,777	1,838

[1] May 1982.
[2] Estimate.

Question 18. (b) Which DEA programs are being reduced as a result of this cut and by how much? What effect will this cut have on operations?

Answer. This reduction, in support of the President's economic recovery program, will be allocated proportionately over the workyears in the DEA programs as shown below (see table on next page). It is anticipated that the 1983 requested workyear level will enable DEA to provide for the ongoing level of operations.

Question 18. (c) Is this cut the same as, or in addition to, the personnel DEA will lose through RIF's?

Answer. DEA personnel will not be RIFed as a result of the fiscal year 1983 FTE reduction but as a result of the redistribution of resources that will be occurring during the reorganization. The reductions in authorized staffing levels in recent years have been achieved through the imposition of hiring freezes. These freezes have resulted in an imbalance in on-board staffing and operational needs. The RIF is being undertaken at this time to correct this imbalance and to bring staffing levels in line with the new organizational configuration. We do not, at this time, see

the need for additional RIF's attendant to the fiscal year 1983 reduction of 100 workyears.

Program	Permanent position	Workyears	Amount (in thousands)
Domestic enforcement		48	$1,207
Foreign cooperative investigations		9	230
Compliance and regulation		10	259
State and local assistance:			
State and local training		1	29
State and local laboratory services		1	29
State and local task forces		3	57
Intelligence		9	230
Research and development			
DEA laboratory services		5	115
DEA training		1	29
Technical operations		4	86
Executive direction and control		7	172
Administrative services		2	57
Total		100	2,500

INVESTIGATIVE PROCEDURES

Question 19. Are the requirements for prior approval by the DEA Administrator contained in Part IV, sections F, G, and H of the Implementation Directive (relating to furnishing controlled substances, allowing drugs to leave the Government's control, and show drugs) new requirements, or do they merely follow DEA procedures in effect before the reorganization? If they are new requirements, how will they affect the timely and efficient conduct of investigations in the field?

Answer. They are not new requirements per se in Federal drug investigations.

The requirements contained in Part IV, Sections F, G, and H of the Implementation Directive relating to drugs leaving the Government's control show drugs, etc., mirror or replicate the requirements provided for in the DEA Domestic Operating Guidelines issued in 1977. These procedures are merely extended to encompass FBI investigations to insure a consistent Federal policy and methodology in drug investigations.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C. June 8, 1982.

Hon. LEO C. ZEFERETTI,
Chairman, Select Committee on Narcotics Abuse and Control,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are the FBI's responses to your April 12, 1982, letter requesting that the FBI and the Drug Enforcement Administration respond to questions submitted by the Committee to suplement my testimony and Acting Administrator Mullen's testimony of March 30, 1982. We have closely coordinated these responses with the Drug Enforcement Administration, and by agreement we have answered questions numbered 1, 3, 5, 6, 7, 8, 9, 20, 21, and 22. DEA will forward answers to the remaining questions to the Committee.

A review of the questions by my staff revealed that a number of areas in which you have expressed interest have already been specifically addressed in the "Implementation Directive for Concurrent Drug Investigative Jurisdiction by the Drug Enforcement Administration and the Federal Bureau of Investigation", dated 3/12/82. Therefore, we have included a copy of this Implementation Directive for your information.

I trust these responses will be of assistance to the Committee. My staff will be available to provide any additional information that you might request.

Sincerely,

WILLIAM H. WEBSTER,
Director.

Enclosures.

Question 1: Judge Webster, in your statements before the Committee, you indicated that the addition of drug enforcement responsibilities to the FBI would not require the FBI to cancel any current programs but would require that you assign a lower priority to some of the work you are now doing.

How will your priorities be reordered as a result of your increased involvement in drug investigations? In what specific program areas will the FBI be required to draw down on its activities and how will this be accomplished?

Answer: The FBI's primary criminal investigative priorities are still violent crime, organized crime, white collar crime and public corruption. The FBI's drug effort will require reallocation of investigative funds from lesser priority areas with the intent being to continued to make quality the standard of where these available resources are applied.

Internal FBI studies are currently being conducted regarding reordering of priorities. Discussions with Senior Field Management personnel are also being conducted and we are confident of our ability to continue to meet our high quality standards.

Question 3: State and local law enforcement officers have complained that involving the FBI in narcotics law enforcement will damage the close and effective working relationships that have been developed between DEA and state and local law enforcement. These law enforcement officers are critical of the FBI's poor record of cooperation with state and local police departments, particularly in the area of sharing intelligence and information.

(a) Since DEA agents have developed a close working relationship with local law enforcement officials, are you concerned that this relationship may be impaired if DEA is perceived as an adjunct of the FBI?

(b) What plans does the Department have to improve cooperation between the FBI and local law enforcement in drug related cases, and in particular what can be done to improve information sharing by the FBI?

Answer: (a)(b) The FBI's record of cooperation with state and local police departments has been outstanding for the past 50 years. The FBI National Academy's record and the provision of laboratory and other investigative and training support augment these cooperative relationships in all areas of law enforcement. As the DEA/FBI integration proceeds, we are sure that relationships in this area between the FBI and state and local agencies will be enhanced.

The "Implementation Directive For Concurrent Drug Investigative Jurisdiction Between the Drug Enforcement Administration and The Federal Bureau of Investigation" addresses state and local interaction and support. DEA will continue to be the agency responsible for coordination of the drug program with state and local authorities. Furthermore, the relationship will also continue to flourish as DEA and the FBI jointly support state and local operations with training, laboratory facilities and the availability of FBI lines of communications with state and local enforcement agencies in those areas where DEA presence is minimal.

Question 5: How does the Justice Department plan to utilize the resources of DEA and the FBI in conducting financial investigations against drug traffickers

Answer: As the Attorney General has repeatedly stated, this reorganization represents a combination of talents and resources rather than a matter of simply bringing various agencies and groups together under one roof. The FBI's corps of agents trained in accounting procedures, computer fraud, banking violations and other such financially oriented skills will allow us to make our approach to drug enforcement more unified in that these specifically trained agents may be directed toward specific tactical purposes, such as identification of illicit assets or discovery of coconspirators through examination of financial records of subjects. The FBI is also fully prepared to pursue organized crime leads and evidence of public corruption uncovered in drug investigations.

Question 6. One reason put forth for the DEA/FBI reorganization is the FBI expertise in financial investigations. "Operation Bancoshares," a sting money laundering operation in south Florida last summer, is often cited as an example of FBI expertise in this area. However, in the trial of the first Bancoshares related indictment, 10 defendants were acquitted out of 14 on trial. This verdict was rendered on February 4, 1982.

(a) How do you account for the unsuccessful result in the trial of this indictment?

Answer. The trial referred to in question 6a was the fifth trial commenced under the Bancoshares umbrella and the subjects were members of one of the largest marijuana smuggling operations in the southeastern United States. Of the 14 subjects tried only seven (7) ever came in contact with the Bancoshares operation and that was for the purpose of laundering 4.9 million in United States currency. The other subjects were all identified through independent narcotics investigation totally separated from Bancoshares.

Prior to indictments in this case, the U.S. Attorney's office in Miami, Florida, made the prosecutorial decision to include conspiracy to import marijuana charges against all members of the organization as well as charging four (4) members with a money laundering count based on their contact with Bancoshares.

Basically, the indictment contained a total of 15 counts, with counts 1 to 13 and 15 being based primarily on information from a separate narcotics investigation. Count 14 was based solely on information gathered in the Bancoshares undercover operation.

The presiding judge, based on motions, severed count 14, the money laundering count (Title 18, USC, 371, Conspiracy to Impede IRS in Collecting Taxes) from the indictment. This count, technically a separate case based solely on the undercover operation, was scheduled to be tried separately.

During the trial of 14 subjects, the judge reminded the jurors that money laundering was not to be considered at this trial and was not evidence of conspiracy to import marijuana.

In summary, the trial of the 14 subjects was basically a trial for conspiracy to import marijuana inasmuch as the indictment count associated with Bancoshares was not considered.

Question 6. (b) Are any other Bancoshares indictments ready for trial?

Answer. The following Bancoshares trials are scheduled:

May 7, 1982—3 defendants: (1) Max Gotlieb, (2) Boris Lerner, and (3) Ed Mesa.

June 14, 1982—5 defendants: (1) Orlando Arrebola, (2) Luis Fernando Vasquez, (3) Mario Lignarola, (4) Giavaini Lignarola, and (5) Moises Assaf.

July, 1982—3 defendants: (1) Elias Facuseh, (2) Marco Fernandez, and (3) Raul Lascano.

Question 6. (c) How much money or other assets seized in the investigation have been forfeited to date as a result of Operation Bancoshares?

Answer. As of this date, 1.5 million dollars in cash have been forfeited and turned over to the U.S. Treasury as a result of the Bancoshares investigation. Additionally, forfeiture proceedings against $6,635,554.76 seized in this investigation are currently pending civil litigation.

Question 7. Reliable sources of information are crucially important to the work of the DEA. Are you concerned these informants, whom DEA has spent years cultivating, will be less willing to provide information if they believe it may be passed on to the FBI?

Answer. The "Implementation Directive For Concurrent Drug Investigative Jurisdiction Between The Drug Enforcement Administration and The Federal Bureau of Investigation" states specifically that informants will continue to be handled and supervised by their respective agency. Each agency's informants will be continually debriefed on matters of interest to the other agency. The respective Special Agent in Charge will be responsible for the proper and complete dissemination of information to their counterpart. Further, informant guidelines are delineated for the FBI and DEA in their respective Special Agent manuals.

Due to the above procedures, and our experience in joint operations to date, we have seen nothing to indicate that DEA informants are less willing to provide information if they believe it may be passed on to the FBI.

Question 8. Page 6 of your prepared statement indicates that the FBI's network of informants and criminal intelligence can be used in drug cases. It is our understanding, however, that the FBI generally protects the identities of its informants while the DEA presses its informants to testify in court in order to make cases against traffickers.

Are the FBI's procedures for handling informants compatible with the investigative and prosecutorial requirements for making sound drug cases? Please elaborate.

Answer. The FBI's procedures for handling informants are most definitely compatible with investigative and prosecutorial requirements for making sound drug cases. The FBI's historical experience in extremely complex, long range investigations indicates that our methods for handling informant information are efficient, productive, and are readily adaptable to the investigation of the types of drug cases in which we are interested.

Question 9. Judge Webster, the Committee understands that the FBI is not cooperating fully in exchanging drug intelligence information with DEA and other Federal drug agencies through the El Paso Intelligence Center (EPIC).

(a) What is the FBI's policy in providing drug intelligence information to EPIC and directly to DEA and other drug enforcement agencies?

(b) As a matter of policy, are there any restraints on the exchange of drug intelligence and information by the FBI to DEA? What is the extent of information exchange between the two agencies?

(c) Under the reorganization, will DEA agents be required to share confidential drug information with the FBI and vice versa?

(d) As a result of the FBI/DEA reorganization, does the FBI intend to develop a close cooperative, participatory relationship with EPIC?

Answer. (a)(b)(c)(d) The "Implementation Directive For Concurrent Drug Investigative Jurisdiction Between The Drug Enforcement Administration and The Federal Bureau of Investigation" specifically addresses this plan and reflects that both the FBI and DEA have developed a variety of information systems which will be utilized in drug investigations. As a matter of policy, there will be full exchange of information in keeping with the mandate of complete, mutual support. Each agency will be responsible for searching its own data bases upon requests and in keeping with proper investigative routines, and will provide the results to the other agency.

A Senior FBI Agent is permanently assigned to the EPIC staff in El Paso, Texas, and provides an effective point of communication between any interested agency, the El Paso Intelligence Center, and the FBI.

Since 1978, an FBI agent, Narcotics Coordinator has been specifically assigned in each of our FBI field offices with the responsibility to disseminate any information of interest in this area to all interested agencies.

Question 20. In your statements, you noted that DEA and FBI have worked successfully with other agencies through task force mechanisms. Why is it necessary to reorganize DEA and FBI rather than having the two agencies work together in task forces or through some other less formal means of cooperation?

Answer. The reorganization has been designed so that concurrent drug investigative jurisdiction will supplement and complement the jurisdiction of DEA. The formality of the reorganization of DEA assures that additional personnel will be available to address the problem, that there will be a larger geographical coverage, that Title III and other electronic surveillance techniques will be employed on a nationwide basis, that DEA will be able to redeploy its limited manpower to drug intense areas, and national and international asset removal efforts will be enhanced and that a nationwide network of informants, and criminal investigative expertise will be available to aid in the development of drug cases.

Question 21. The DEA was established in 1973 to consolidate the fragmented Federal drug enforcement effort and to underscore our nation's commitment to narcotics.

(a) Given the steps being taken to restructure DEA so that its organization will more closely resemble that of the FBI, the proposals to conform DEA's personnel system to the FBI's, and the assignment of general supervisory responsibility for drug investigations to the FBI Director, how is the integrity of DEA as the nation's lead drug enforcement agency preserved under the reorganization?

(b) Isn't it likely that dividing the responsibility for drug investigation between DEA and FBI will fragment our enforcement efforts contrary to the intent of the 1973 reorganization plan approved by Congress?

(c) Why is the FBI Director "uniquely situated" to oversee the joint workings of both DEA and FBI, as you assert on page 6 of your prepared statement?

(d) Who will be the coordinating individual of joint FBI and DEA drug investigations and field operations?

Answer. (a)(b)(c)(d) DEA will continue to function as the principal Federal drug enforcement agency, responsible for the enforcement of the Controlled Substances Act; the Diversion Control Program for the legitimate drug industry; drug intelligence analyses; and publication of appropriate strategic assessments.

Rather than being a fragmenting influence in enforcement efforts, the combination of FBI and DEA resources will serve as a tool of unification to reach the highest levels of drug trafficking groups and their assets. DEA's restructured management system was modeled on the FBI's centralized systems because this system has proven to be responsive to the field while effectively managing the proper allocation of resources. Coordination of investigative activities at both the headquarters and field level is being assured through specific requirements found in the "Implementation Directive For Concurrent Drug Investigative Jurisdiction Between The Drug Enforcement Administration and The Federal Bureau of Investigation."

Question 22. Does the Administration plan eventually to merge DEA into the FBI?

Answer. The structure announced by the Attorney General on January 28, 1982, establishes a workable long term arrangement for drug enforcement. One of the problems for past administrations which faced this issue was that they could only speculate as to whether or not a merger would work. This structure will give us real data regarding this issue.

If in the future, results indicate that the nation would benefit from a merger, such a merger can be readily undertaken and aided by the existence of this new

structure. If future experience mandates that the nation would not benefit from a complete merger, then the structure that we currently have in place can, of course, be kept in place.

IMPLEMENTATION DIRECTIVE FOR CONCURRENT DRUG INVESTIGATIVE JURISDICTION BETWEEN THE DRUG ENFORCEMENT ADMINISTRATION AND THE FEDERAL BUREAU OF INVESTIGATION

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., March 12, 1982.

President Ronald Reagan has mandated that the Federal Government will do its utmost to assist in the reduction of crime throughout the Nation. In keeping with this mandate, during the past year Attorney General William French Smith initiated a task force to examine in depth the crime problems facing this country today. The task force finding endorsed, among other items, the proposition that the Attorney General should support the implementation of a clear, coherent and consistent national policy with regard to narcotics and dangerous drugs, reflecting an unequivocal commitment to combating international and domestic drug traffic.

The Attorney General, in order to insure maximum effectiveness and efficiency in the enforcement of criminal drug laws in the United States, on January 28, 1982, made the resources of the FBI available to complement and supplement those of the DEA in this effort. To this end, the FBI concurrently with the DEA was granted authority to investigate violations of the criminal drug laws of the United States. To insure complete coordination of the drug enforcement effort of the U.S. Department of Justice, the Administrator of the DEA will perform his functions under the general supervision of the Director of the FBI and will report through him to the Attorney General as appropriate.

This initiative by the Attorney General in harnessing the investigative resources of these two great institutions with long, proud and richly deserved records of achievement is unparalleled. The enclosed implementation directive, prepared jointly by the FBI and the DEA, addresses areas in which the FBI will supplement and, just as important, complement the efforts of the DEA in jointly attacking the drug crime problem nationwide. Acting Administrator Mullen and his field representatives will continue to be the primary architects of the Federal drug enforcement program after coordination with their FBI counterparts. Periodically, this directive will be reviewed with participation from each agency through the Headquarters Review Committee.

This directive and, more importantly, our joint efforts will ultimately succeed only with the full realization of all investigative personnel that we in the DEA and FBI are allies joined together in a unique venture to address the most significant crime problem facing the Nation today. I am confident that through the dedication, cooperation and professionalism of all personnel, we will accomplish our mandated goals and will have a major impact on the illicit trafficking of drugs.

WILLIAM H. WEBSTER,
Director.
FRANCIS M. MULLEN, JR.,
Acting Administrator,
Drug Enforcement Administration.

I. BACKGROUND

Illicit drug traffic presents an ever-increasing threat to our society, its institutions and people. The Attorney General has identified drug trafficking as the number one crime problem in the United States. Clearly, an increased Government response is needed. On January 28, 1982, the Attorney General issued an order delegating to the FBI concurrent jurisdiction with DEA for investigations of violations of the Comprehensive Drug Abuse Prevention and Control Act of 1970, hereinafter referred to as the Controlled Substances Act. The Attorney General also announced that the Administrator of the DEA will function under the general supervision of the Director of the FBI, who will continue to report to the Attorney General. This decision recognizes that the strengths and unique capabilities of each agency, when joined together, will result in a more effective national drug investigative effort. The purpose of this joint directive is to implement the Attorney General's decision.

II. ROLES

The Attorney General has mandated that DEA will continue to function as the principal Federal drug enforcement agency, responsible for the enforcement of the Controlled Substances Act; the Diversion Control Program for the legitimate drug industry; drug intelligence analyses; and publication of appropriate strategic assessments.

In delegating concurrent jurisdiction to the FBI as it relates to the Controlled Substances Act, the Attorney General has mandated that the FBI assume a significant drug enforcement role working in close cooperation with DEA. He has also directed that FBI expertise in such areas as organized crime (OC), financial investigations and white-collar crime investigations be fully utilized in drug enforcement work.

In furtherance of these directives, the FBI will focus its resources on drug investigations involving traditional OC families (La Cosa Nostra), violence-prone, nontraditional OC groups such as the outlaw motorcycle gangs, and ethnic or racial OC groups such as the Israeli, Mexican and Black Mafias and La Nuestra Familia. The DEA will continue to focus on investigations of major drug organizations according to established priorities. Where feasible, the FBI and DEA will buttress each other's investigative role by utilizing each agency's intelligence base and expertise. Nothing in the above delineation of roles will preclude either agency from coordinated selection of prioritized, mutual targets of opportunity.

The specific areas of responsibility and requisite coordination between DEA and FBI will vary with the availability of resources and the extent of the drug crime problem in a particular field division. Therefore, it will be incumbent upon FBI and DEA field office management to identify the major drug-trafficking groups in their divisions and, thereafter, either individually or jointly target them for investigation, utilizing available resources and expertise of both agencies.

In major urban areas, the number of joint investigations will be greater, necessitating close coordination to preclude duplication of effort and minimize physical danger to personnel. In areas with less DEA presence, the FBI will be expected to conduct drug investigations in conjunction with DEA, but with minimal direct support from DEA.

Both DEA and the FBI will place strong emphasis on major distributors and organizations involved in the manufacturing, importing, distributing and financing of illicit controlled substances. To effectively immobilize these major organizations and traffickers, conspiracy investigations (particularly the use of the Continuing Criminal Enterprise and Racketeer Influenced and Corrupt Organizations Statutes) should be the focal point of our investigative efforts. Resources, both personnel and financial, should not be devoted to targeting street violators, which would duplicate the role of state and local law enforcement agencies.

III. COORDINATION OF INVESTIGATIVE ACTIVITY

A. Introduction

A successful cooperative effort against drug trafficking will depend, in large measure, on the degree of coordination and the spirit of cooperation at all levels. All Special Agents must recognize that rules and procedures cannot substitute for good-faith cooperation, which will be expected from all personnel of both agencies. Concurrent jurisdiction in drug investigations without proper coordination could cause not only inefficient use of resources and information, but create dangerous situations in street operations. Inefficiency caused by duplication of effort or failure to take full advantage of opportunities to combine resources or information for a better investigative product must be avoided.

B. Headquarters coordination

1. The Executive Headquarters Staff of DEA and FBI will meet regularly, as appropriate, to insure mutuality at the policy level.

2. A Headquarters Review Committee, consisting of equal FBI and DEA representation, will be established. The purpose of this Committee is to monitor the implementation of this directive, develop new national-level initiatives and resolve any problems referred by field office management. Prior to this Committee addressing field disputes, efforts must be expended to resolve such problems at the lowest possible level by respective agency counterparts.

3. FBI and DEA will each assign a Special Agent Supervisor in a liaison capacity at the opposite Headquarters for the purpose of insuring day-to-day coordination and cooperation in investigative activities.

C. Field coordination

1. Management meetings: The Special Agents in Charge and appropriate supervisory personnel of both agencies will be responsible for the implementation of this directive. Thereafter, meetings will be held on a regularly scheduled basis to enhance coordination, resolve problems and discuss ongoing or contemplated operations which may affect or be of interest to the other agency. It is expected that first-line supervisors of both agencies will have an ongoing dialogue with their counterparts.

2. Exchange of liaison officers: In all field offices, DEA and the FBI will each assign an experienced Special Agent on a liaison basis for the purpose of insuring day-to-day coordination and cooperation in investigative matters.

3. Investigative coordination: (a) Federal-level drug investigations fall into one of three categories: (1) Investigations of matters within the DEA's area of responsibility as outlined under Part II of this directive and conducterd solely by DEA or by DEA with agencies other than the FBI; (2) investigations of matters within the FBI's area of responsibility as outlined under Part II of this directive and conducted solely by the FBI or by the FBI with agencies other than the DEA; and (3) joint FBI/DEA investigations.

(b) With the exception of minor drug investigations targeted at low-priority subjects such as those conducted by the FBI on Indian or Government Reservations and by DEA at ports of entry, i.e. airports, all drug investigations instituted unilaterally by the DEA or the FBI should be coordinated through the liaison Agents at the field office level in order to: (1) Insure that the DEA or FBI does not currently have an investigation ongoing with regard to the proposed targets of the drug investigation; (2) obtain all intelligence information each agency may have regarding the targets of the proposed investigation; and (3) determine any interest on the part of the FBI or DEA to enter into a joint investigation regarding the targeted subjects.

(c) At the outset of joint investigations, a specific plan should be devised at the field office level regarding the role of each agency (FBI/DEA) in the investigation. Each Headquarters should then be advised of this plan by established procedure.

(d) Request for Investigative Support: DEA may request assistance from its counterpart FBI field office for manpower support or investigative expertise which cannot be met by available DEA manpower. Conversely, the FBI may request assistance from its counterpart DEA field office for manpower support or investigative expertise which cannot be met by available FBI manpower. Examples of such operations could include, but are not limited to: (1) Development of Title III intercepts (including the use of FBI/DEA technical expertise and/or equipment if necessary); (2) manning of undercover operations; (3) long-term surveillance operations; (4) large-scale arrests and/or searches and seizures; and (5) assistance in the development of the financial aspects of drug investigations.

(e) Joint FBI/DEA Investigations: Joint investigative efforts on a long-term basis are encouraged when the investigative targets are appropriate and resources of the respective agencies are available. Such investigations will require approval at the FBI/DEA Headquarters level. Funding of drug purchases, other operating expenses and dissemination of informant information will be handled in accordance with information set forth in other portions of this directive.

IV. INVESTIGATIVE MATTERS

A. Investigative Expenses

As a matter of policy, each agency will bear its own investigative expenses and acquire supplemental funding through established agency's procedures.

Where one agency plays a minor, supportive role, the primary agency will supply the funds for the purchase of drug evidence.

In joint investigations, the agency responsible for funding purchases of drug evidence will be decided at the development of the operational agreement.

Policy relative to payments to informants is discussed in subsection IV., C.

B. Access to information systems

Both the FBI and the DEA have developed a variety of information systems which will be utilized in drug investigations. As matter of policy, there will be a full exchange of information in keeping with the mandate of complete, mutual support. Each agency will be responsible for searching its own data bases or other information systems upon request, or in keeping with proper investigative routine and providing the results to the other consistent with the intent of this directive. The Headquarters Review Committee, among other duties, will develop procedures for indexing into agency files.

C. Informants and cooperative witnesses

Informants will continue to be handled and supervised by their respective agencies. Each agency's informants will be routinely debriefed on matters of interest to the other agency. To facilitate this, a debriefing guide will be provided containing areas of inquiry pertinent to each agency. The respective Special Agents in charge will be responsible for the prompt, complete dissemination of informant information to their counterpart.

Cooperative witnesses will be controlled by the appropriate agency. In joint investigations, there must be an agreement as to which agency will control the cooperative witness to insure consistent and productive use. As with informants, appropriate dissemination of information must be made.

Informant payments will generally be made from the funds of the agency controlling the informant. Payments to informants of the other agency can be made in appropriate cases with concurrence of the respective Special Agents in Charge, Headquarters' approval if necessary and appropriate documentation.

D. Technical support to investigations

As a general rule, each agency will provide its own technical support as dictated by needs and capability. Should a need be identified in the local field office of either agency which cannot be locally met, support will be sought from that agency's Headquarters, as would normally be the case. If the support is needed on a short-term basis, the Special Agent in Charge, at his discretion, may seek assistance from his counterpart as this will be most efficient and cost effective in such situations. Longer term or more sophisticated requirements will be forwarded to the appropriate Headquarters where the support will be provided or sought from the counterpart Headquarters Staff. A program will be implemented within the technical support structure of each agency to familiarize each other on available capabilities to insure that investigations are enhanced to the fullest within the total capability of both agencies.

E. Evidence Processing

1. Drug evidence: As a matter of policy, the DEA laboratory system will be responsible for the analysis of all drug exhibits collected, purchased or seized by either agency under any circumstances. Conversely, the FBI laboratory system will be responsible for analysis of all nondrug evidence requiring examination or analysis for investigations of either agency. Latent fingerprint examinations will also be accomplished in the FBI Identification Division for both agencies. This policy recognizes the efficient use of developed expertise, especially as it relates to expert testimony at time of trial. Any evidence submitted for analysis to the facilities of either agency will be processed with the same priority as if submitted by personnel of the host agency.

Where drug evidence is acquired in a joint FBI/DEA investigation custody normally will be assumed by DEA for processing and submission to the laboratory.

Of special note is drug evidence seized by the FBI incidental to the arrest of a DEA fugitive. The processing of this evidence will be coordinated with DEA field management to assure that the prosecuting U.S. Attorney's Office is afforded the use of this additional evidence at trial. This may require transferring custody of the drugs to DEA for processing or direct FBI submission to the DEA laboratory handling other drug exhibits in the case.

2. Nondrug evidence: Special Agents in Charge will be responsible to insure that the investigative value of nondrug evidence of interest to the other agency is shared fully consistent with the intent of this directive.

3. Clandestine drug laboratories: Special caution must be taken relative to the seizure of clandestine drug laboratories by Agent personnel. This caution cannot be overstated, as the common presence of explosive chemicals and the delicate nature of closing down an in-process operation present real dangers. Therefore, unless there are the most extenuating circumstances, neither FBI nor DEA personnel will attempt the seizure of a clandestine laboratory without the presence of a DEA chemist experienced in the required procedures.

F. Furnishing controlled substances

Controlled substances are by their very nature harmful to humans and, therefore, require a special degree of care in handling. The responsibility for keeping these substances out of the hands of the public applies to all law enforcement personnel. The handling of these substances must be distinguished from other forms of contraband or instruments of criminal activity. However, there are certain circumstances in which it is advantageous to an investigation to furnish small quantities of controlled substances to a violator through an undercover Agent or informant. The fur-

nishing of a controlled substance by an Agent of the Government is considered sensitive enough to require the personal approval of the Administrator of DEA. In joint investigations, concurrence of both Headquarters will be required.

The Acting Administrator of DEA will develop standards for making decisions for furnishing controlled substances, mentioned above, and for allowing drugs to leave the Government's control, mentioned under Subsection G, which apply equally to DEA and FBI. This approach will provide for consistent standards for both agencies, and these standards shall be implemented upon approval of the Director of the FBI. Drugs shall not be allowed to leave the Government's control without the concurrence of the Acting Administrator of DEA unless specifically authorized by the Director of the FBI.

G. Other instances of allowing drugs to leave the Government's control

There will also be situations when specific information is developed by an informant or through other investigative techniques, such as a court-approved electronic intercept, regarding the shipment, delivery or location of controlled substances not directly controlled by the informant or undercover Agent. In these situations, the respective Headquarters must be immediately advised by teletype if there is not an immediate plan to seize the controlled substances. In certain cases, it may not be appropriate to seize such drugs in order to enhance the effectiveness of an investigation (e.g., continue Title III, begin new Title III, develop undercover operation). The FBI or DEA may continue an investigation without seizing substantial amounts of illicit drugs only when authority is obtained from the Administrator of DEA. In joint investigations, the concurrence of both Headquarters will be required.

H. Show drugs

In some instances in order to develop evidence of an subject's involvement in a major drug conspiracy, undercover Agents may pose as drug manufacturers or distributors rather than drug buyers. This type of undercover operation may require the display of quantities of controlled substances obtained from a DEA regional laboratory. Approval for such activity must be sought from the appropriate Headquarters following established procedures and, in joint investigations, concurrence of both Headquarters will be required. In conducting this type of undercover operation, the FBI and DEA will insure that close contact and coordination are maintained between each other, and the agency (FBI/DEA) conducting the operation will insure proper coordination with state and local agencies in order to avoid a confrontation situation.

I. Seizure of trafficker assets

With the delegation of concurrent drug investigative jurisdiction to the FBI, Special Agents of the FBI will be authorized to seize property or other assets of traffickers as provided in Section 881 of the Controlled Substances Act following established procedures. The disposition of property suitable for official use will be made with the seizing agency having the first opportunity to place the property in service. In joint investigations, disposition of property suitable for official use will be discussed and agreement reached at the field level.

J. Fugitives

The FBI has agreed to provide direct assistance to DEA in the apprehension of significant DEA fugitives who are U.S. citizens and believed to be residing in the United States. These investigative matters will continue to receive priority investigative attention within the FBI. The initiation of these investigations will be coordinated by FBI Headquarters with direct support from DEA Headquarters. At the outset of the fugitive investigation, the appropriate DEA field office will provide all known information regarding the individual, and DEA will subsequently conduct no unilateral investigative efforts to apprehend the subject. Upon apprehension, the appropriate FBI Special Agent in Charge will be responsible to insure that his counterpart is expeditiously advised of the apprehension of the subject.

K. Coordination with other law enforcement agencies

The implementation of concurrent drug investigative jurisdiction will require close attention by the Special Agents in Charge and Headquarters' officials to insure that traditional interagency relationships will not be disrupted. DEA will continue to be the agency responsible for coordination of the drug program with state and local agencies. This role will also continue in relation to U.S. Customs Service, U.S. Coast Guard and others involved in the various drug interdiction efforts. DEA, in consultation with their FBI counterparts, as appropriate, will continue to be the spokesman for the Federal drug program.

In those investigations where DEA is playing a minimum support role or is not directly involved, a key element in the FBI's ongoing coordination efforts will be the advisement of DEA of the FBI's interaction with state or local law enforcement agencies in the investigation.

All Special Agents in Charge will be held accountable to insure that "agency shopping" by third parties does not develop.

The Special Agent in Charge of the respective agency should insure that their drug-related initiatives are known at the appropriate Law Enforcement Coordinating Committees.

L. Conduct of foreign investigations

In keeping with the principle that the United States Government should present a single point of contact with foreign drug enforcement counterparts, DEA will continue to be responsible for the conduct of drug investigations in foreign countries. This will include the investigation of leads generated in all types of FBI/DEA cases. In joint cases, the domestic DEA offices will transmit the investigative leads following established procedures. Where the FBI is conducting a drug investigation and there is minimum DEA participation, the request for foreign investigation will be transmitted to FBI Headquarters which, in turn, will task DEA Headquarters to transmit the lead to the appropriate DEA foreign office for action. An information copy of the request will be provided to the local DEA office by the originating FBI office for information and coordination. An information copy of investigative matters involving FBI interests will also be simultaneously provided by the DEA Country Attache to the FBI Legal Attache for information. Any involvement of FBI personnel in foreign investigations must have the concurrence of both Headquarters.

M. Referral of public corruption information

A priority within the FBI is the investigation of public corruption which is showing a significant increase in relation to drug trafficking. As a matter of policy, any drug case initiated by DEA which develops a public corruption aspect will be immediately coordinated with the appropriate FBI Special Agent in Charge and a mutually agreed upon plan established for pursuit of the case. Additionally, DEA informants routinely will be debriefed regarding public corruption matters. Indications of drug-related corruption on the part of foreign officials will be forwarded to the appropriate DEA foreign office for action. The DEA foreign offices will coordinate such information with the FBI Legal Attache having geographic jurisdiction for the country involved.

Any information developed which reflects on the integrity of employees of either agency will be immediately forwarded, following established procedures, to the Office of Professional Responsibility of the originating agency with a copy to the counterpart Special Agent in Charge. The respective Headquarters' Office of Professional Responsibility Staff will insure transmittal of employee-related allegations to the other on a timely basis for appropriate investigation and disposition.

N. Reporting investigative results

When an investigation is conducted primarily by one agency with the other agency providing minimal support, the reporting rules of the principal agency will be followed throughout. In joint FBI/DEA investigations, a determination will be made at the outset as to which agency's reporting rules will be utilized in order to prevent duplication of recorded information.

O. Measurements of accomplishments

As a result of concurrent jurisdiction, DEA and the FBI will each establish internal procedures for monitoring resources committed and results achieved in joint or independent cases, consistent with each agency's internal management controls and needs. In addition, it will be the responsibility of the Headquarters Review Committee to establish a common system for measuring accomplishments. The elements of this system, as well as reporting requirements, will be agreed to by each Headquarters and appropriate procedures established and published.

V. TRAINING

FBI Headquarters, in concert with DEA Headquarters, will be responsible to insure that a sufficient number of FBI Special Agents receive requisite training to conduct Federal-level drug investigations with minimal support from DEA. Conversely, DEA Headquarters, in concert with FBI Headquarters, will be responsible to insure that all DEA Special Agents are apprised of traditional FBI jurisdictional

interests and an appropriate number of DEA Special Agents receive requisite training to enhance these joint efforts.

VI. PROCEDURES

The Headquarters Review Committee will be responsible to oversee the development, coordination and implementation of the necessary procedures for the implementation of the policy established in this directive. It is expected that procedures will be published within each agency consistent with the directives and management systems in force in each; however, all procedures or subsequent policy published as a result of the delegation of concurrent drug investigative jurisdiction to the FBI, must be coordinated with appropriate elements of the other Headquarters.

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL,
Washington, D.C., June 24, 1982.

Hon. WILLIAM H. WEBSTER,
Director,
Federal Bureau of Investigation, Washington, D.C.

DEAR JUDGE WEBSTER: Thank you for your letter of June 8, 1982, in which you responded to the Committee's questions supplementing your testimony of March 30, 1982.

My review of these responses raises additional areas of inquiry relating to Operation Bancoshares. Concerning your answer to question 6a, it is stated that Count 14 of the indictment in question, involving money laundering, was severed from the action and scheduled to be tried separately. I am very much interested in knowing a) the present status of that count in the indictment; b) the names of the defendants charged in that count; and c) whether those named defendants were acquitted on the importation of marihuana counts. In addition, I am also interested in knowing the status or outcome of the Bancoshares related indictment that was scheduled to commence on May 7, 1982.

I look forward to your reply and appreciate your cooperation in this matter.

Sincerely,

LEO C. ZEFERETTI,
Chairman.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., July 26, 1982.

Hon. LEO C. ZEFERETTI,
Chairman, Select Committee on Narcotics Abuse and Control,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of June 24, 1982, requesting additional information concerning a prior response that the FBI provided to the Committee by letter of June 8, 1982.

My staff has prepared a detailed response to your inquiry regarding count 14 from the indictment of several subjects in the Bancoshares investigation.

I hope this additional information will be helpful to the Committee. Please do not hesitate to contact my staff if you have additional questions.

Sincerely,

WILLIAM H. WEBSTER,
Director.

Enclosure.

Pursuant to the Bancoshares investigation, the fifth group to be tried consisted of 14 subjects. The indictment of these subjects contained a total of 15 counts, with counts 1-13 and 15 being based primarily on information from a separate narcotics investigation. Count 14 was based solely on information gathered in the Bancoshares undercover operation.

The presiding judge, based on legal motions, severed count 14 (Title 18, USC, 371, Conspiracy) from the indictment.

Those indicted under count 14 were Billy Maddox, Robert Ewan, John Paul Browning and Donald Raulerson.

Donald Raulerson pled guilty to counts 1, 2 and 5 and count 14 was dropped as he entered into a plea bargaining agreement with the Government.

John Paul Browning was tried alone on count 14 and on December 21, 1981, he was found guilty on one count of violating Title 18, USC, Section 371 (Conspiracy to Defraud the United States). Browning was sentenced to four years incarceration and fined $5,000.

Billy Maddox and Robert Ewan were tried together on count 14 and on April 1, 1982, their trial ended with a hung jury. Both subjects are scheduled to be retried on October 4, 1982.

Billy Maddox, Robert Ewan and Donald Raulerson were also indicted on importation of marijuana counts, John Paul Browning was not. As stated above, Raulerson pled guilty to three counts of importation. Maddox and Ewan were tried and acquitted on all charges of importation of marijuana.

The following subjects were scheduled to go on trial on May 7, 1982: Max Gotlieb, Boris Lerner and Ed Mesa. The trial date was continued when Gotlieb's son died and Gotlieb requested and received court approval to travel to Colombia, South America. Gotlieb has failed to return from Colombia and together with Ed Mesa is in a fugitive status. Their trial date has been continued indefinitely.

Additionally, the following subjects were scheduled to go on trial on June 14, 1982: Orlando Arrebola, Luis Fernando Vasquez, Mario Lignarola, Giavaini Lignarola and Moises Assaf. Arrebola and the two Lignarolas will go on trial on September 6, 1982. Vasquez and Assaf are currently in a fugitive status and no trial date has been set for them.

Forfeiture proceedings have been initiated against a number of subjects in the Bancoshares investigation. This action is being pursued under Title 21, U.S. Code Section 881 (Forfeiture).

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